EXHIBIT A

DUPLICATE

Case No 8921

In the Matter of the Review by the Commission Into Verizon Maryland Inc.'s Compliance with the Conditions of 47 U.S.C. § 271(c)

DIRECT TESTIMONY OF DOUGLAS A. DAWSON

ON BEHALF OF CORE COMMUNICATIONS, INC.

Dated: July 15, 2002

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I. BACKGROUND OF THE WITNESS

Q. Please state your name, company and business address.

A. My name is Douglas A. Dawson. I am both a founder and an owner of CCG Consulting, Inc. ("CCG"), located at 6811 Kenilworth Avenue, Suite 300, Riverdale, Maryland, 20737.

Q. On whose behalf are your submitting this testimony?

A. I am submitting this testimony on behalf of CoreTel Communications, Inc. ("CoreTel"), a competitive local exchange carrier ("CLEC") operating in Maryland.

Q. What is your educational background?

A. I received a Bachelor of Science in Accounting from the University of Maryland in 1977. In addition, I received a Masters degree in Mathematics from the University of California at Berkeley in 1985.

Q. What is your business background?

A. Prior to founding CCG, my most recent job was as the Staff Director of Special Studies at John Stauralakis, Inc. ("JSI") of Seabrook, Maryland. In that capacity, I

oversaw all projects that were not historically part of JSI's core telephone separations business. I worked to assist clients on such projects as the analysis and implementation of becoming a toll reseller; the development of optional toll and local calling plans; studying and implementing traditional EAS and Measured EAS plans; conducting feasibility studies associated with the implementation of new Internet subsidiaries; performing embedded, TELRIC, and incremental cost studies for products and services; assisting in local rate case preparation and defense; development of lease rates for sales to affiliates and non-affiliates; conducting cross-subsidy studies determining the embedded overlap between telephone services; and preparation of analyses concerning the potential impact of competition on rural ILECs.

Before serving as Staff Director of Special Studies at JSI, I worked at JSI as a manager in the Separations Department. In that capacity, I supervised and performed Part 36/69 toll cost studies, prepared a large number of separations studies, calculated the access charge rates for Interstate and State access charge tariffs, and re-wrote the JSI Part 36/69 allocator into a Windows-based spreadsheet. I also taught a number of classes in Part 32 accounting practices, telephone separations, and budgeting and planning.

Before serving as a manager in the Separations Department at JSI, I had operational experience in various job titles for CP National in Concord, California. My final position there was as Director of Revenues, and in that

capacity I oversaw a large group that performed telephone accounting, telephone separations and traffic studies for a seven-state area. My group also monitored earnings, maintained tariffs, filed rate cases, developed access and end-user tariff rates, and monitored and commented in state and federal regulatory proceedings. I testified in a number of rate cases and regulatory proceedings in California, Nevada, Oregon and New Mexico. While at CP National, I was also responsible for earnings monitoring and rate case development for electric, gas and water properties.

Before joining CP National, I worked as Staff Manager in Industry Relations at Southwestern Bell in St. Louis, Missouri. My functions there included tracking issues that impacted Bell's relationships with the independent telephone industry, calculating and negotiating various interconnection and settlement rates between companies for EAS and other arrangements, and overseeing the review of an independent telephone company's traffic and toll cost studies. I also served a stint as a member of the rate case team for the Missouri operations.

Before joining CP National, I began my career at John Stauralakis, Inc. performing Part 67 separations studies.

Q. What is your specific role at CCG?

A. I am a founder and owner and have the title of Chief Technical Officer. I am in charge of the CLEC implementation team. In that capacity, I have direct responsibility for the business planning, regulatory and engineering groups and products within our company. I personally conduct all of the accounting development and advisory work for clients, I directly assist companies to plan the best strategic path for future growth, and I am in charge of all of the costing and pricing work that CCG performs. CCG consults to over 250 CLECs nationwide and we have gained broad industry knowledge of how CLECs function in the real world.

Q. Please describe how your experience is relevant to the facts in this case.

A. One of the functions I perform at the company is to negotiate interconnection agreements on behalf of clients. Once clients have obtained interconnection I work with them to implement their desired network. In that role I have negotiated many interconnection arrangements with all of the RBOCs, have attended numerous engineering meetings, and have seen many networks through to completion. Further, I have three staff members who also perform this role and we are almost constantly at various stages of network implementation with various clients. I work with my staff to keep our firm abreast of the various changes in interconnection agreements and in implementation policies. One would think that after five years of active competition that issues associated with interconnection would have stabilized, but the RBOCs and CLECs are in a constant dance to gain

advantage over each other and the language and nuances of interconnection shift constantly. In addition to working with the RBOCs we have worked to interconnect with smaller players like ALLTEL, Citizens Utilities, Century, the old GTE and Sprint. Since 1997 I have probably been involved directly or as an advisor to my staff in as many different interconnection negotiations as anybody on the CLEC side of the fence.

II. SUMMARY OF THE TESTIMONY

Q. What is the purpose of your testimony?

A. The purpose of this testimony is to intervene on behalf of CoreTel in Verizon's 271 filing before this Commission. As this Commission is aware, CoreTel has experienced a number of problems with Verizon in launching and operating the CLEC and we thought it was important to remind the Commission that we don't believe that Verizon has take their competitive responsibilities seriously.

Q. What are the basic issues that CoreTel wants the Commission to consider in the 271 proceeding?

A. Verizon has hindered CoreTel in many ways and has harmed CoreTel in its attempts to provide competitive services in Maryland. As CoreTel understands it, one of Verizon's most important hurdles to getting 271 authority is in proving that they have operated in such a way as to have fostered competition in the State.

CoreTel does not believe that Verizon has acted in good faith with competitors and we want to list those problems we have had in the past with Verizon and show that most of our issues are unresolved and are still ongoing problems.

Q. What are the major issues that CoreTel would like to bring to the Commission's attention?

A. Our issues fall into several broad categories. First are issues that can be characterized as Interconnection issues, which fall under checklist item 1. Next we have some issues with the dark fiber UNE offered by Verizon, which fall under checklist items 2, 4, and 5.

Q. Can you summarize CoreTel's Interconnection issues with Verizon?

A. Yes. I believe Verizon has violated Item 1 of the 271 Checklist. That Checklist item states that Verizon must provide nondiscriminatory interconnection at any technically feasible point. Further, that interconnection should be at least equal in quality to that provided to itself. CoreTel's interconnection issues have been presented to the Commission earlier in Case No. 8881 that is still pending before the Commission. In that case CoreTel demonstrated that Verizon has refused to use existing, technically feasible facilities to interconnect with CoreTel. This originally occurred in Baltimore and very recently has occurred again in Salisbury, MD. CoreTel also believes that Verizon took excessive time to effectuate several

interconnections for CoreTel. In addition, Verizon refuses to pass Calling Party Number ("CPN") (which is essentially the calling parties telephone number, similar to caller ID).

Q. Can you summarize CoreTel's Dark Fiber UNE issues with Verizon?

A. Yes. I believe Verizon fails to provide nondiscriminatory access at technically feasible points to dark fiber UNEs in violation of checklist items 2, 4, and 5. As discussed below, Verizon's current dark fiber offering is essentially worthless to CLECs for several reasons. First, Verizon will not tell CLECs where available dark fiber exists, even though reasonable access to such information is critical for network buildout determinations. Second, Verizon unlawfully limits the ability of CLECs to access dark fiber, by limiting the available access points and by making CLECs collocate in order to access dark fiber and to combine "noncontinuous" dark fiber.

Q. What is CoreTel's basic business plan?

A. CoreTel, for the most part, delivers data services that are not available from Verizon. For example, one of CoreTel's most successful products is a 100-megabyte Ethernet connection for companies that require large amounts of bandwidth. This is a product that is not available from Verizon. CoreTel also offers managed modem products for Internet Service Providers that differ

substantially both in price and performance from the products that Verizon offers to ISPs.

III. INTERCONNECTION ISSUES

Q. Can you summarize the main interconnection issues?

A. Yes. CoreTel basically wished to utilize existing Verizon multiplexers to interconnect with Verizon. These multiplexers were already in the network providing service to Verizon customers. In the end, Verizon rejected CoreTel's request to use existing multiplexers on the grounds that it would force Verizon to mix retail and wholesale services. I will demonstrate that what CoreTel was seeking was both technically feasible and practical. I believe Verizon's policy that does not allow the sharing of retail and wholesale hardware in the field to be capricious and inefficient. CoreTel's other main Interconnection issue is that Verizon took too long to effectuate interconnection. This can be best demonstrated by comparing the time frames experienced by CoreTel and other CLECs to the time frames that are routinely achieved by large retail customers and other types of carriers. I think it worthy to note that this is an ongoing practice of Verizon and problem for CoreTel. Indeed, Verizon refused to provide CoreTel interconnection at an existing facility in on grounds that it is classified as "retail" as recently as June 2002.

A. Technical Feasibility

Q. The major Interconnection issue with Verizon has been the technical feasibility of the interconnection requested by CoreTel. Can you explain what CoreTel was trying to do?

A. Yes. CoreTel wanted to establish interconnection using the entrance facility option for connecting with Verizon. With the entrance facility method, either Verizon or the CLEC either constructs a facility for traffic running from/to the CLEC network to the Verizon network. Verizon is responsible for delivering its customers' traffic to the CoreTel network, and CoreTel is responsible for delivering its customers' traffic to the Verizon network.

CoreTel initially planned to interconnect at three different Verizon tandems – Baltimore in LATA 238, Mt. Airy in LATA 240 and Easton in LATA 242. In each of the three LATAs CoreTel was able to find suitable locations for its own network equipment. Since CoreTel elected to use an entrance facility interconnection, CoreTel was required to obtain transport from its chosen network locations to the Verizon tandems. There was an existing OC-12 fiber optic multiplexer at CoreTel's Baltimore location and an OC-3 fiber optic multiplexer at CoreTel's Mt. Airy location. CoreTel wanted Verizon to use these existing multiplexers to establish entrance facilities from Verizon's network to CoreTel's network. Verizon informed CoreTel that these existing facilities could not be used

for Interconnection because they were classified as "retail" facilities, rather than "wholesale" facilities. I will discuss the issues surrounding this classification below in another section of the testimony.

Q. Was it possible for Verizon to use the existing facilities to serve CoreTel?

A. Yes. In both locations there was spare capacity on the existing systems. Let me discuss what spare capacity means in this case. First let's look at the Baltimore location where there was an existing OC-12 multiplexer. An OC-12 multiplexer represents a tremendous amount of bandwidth with 622.08 Mbps of throughput and can be represented as the ability to supply 4 OC-3s, or 12 DS3s, or 336 T1s or 8,064 individual trunks. Typically, Verizon prefers to use and reserve bandwidth at such facilities in blocks for specific customers, meaning they prefer to keep the trunks for each large customer grouped together and separated from those of other customers. In order to maintain customer grouping, with such a large device as this OC-12 multiplexer Verizon would typically assign blocks of capacity to large customers at the OC3 or DS3 level. Verizon would typically allocate and reserve that amount of bandwidth even if the customer didn't have plans to use it all.

CoreTel was looking to start with less than an OC-3 worth of bandwidth in Baltimore. Verizon engineers had characterized the existing device to CoreTel as nearly unused, so I assume that it had set aside blocks for existing service on one OC-3 or less. This means that the device had at least 3 additional OC-3 blocks

available for CoreTel or for other customers. An OC-12 multiplexer is a rather rare device, because of its cost to see in the field at the retail level and one normally associates such a large device with carrier grade service because of its size and cost. There are very few retail end-user sites anywhere in Maryland that would require an OC-12 worth of bandwidth at one location. However, since the device existed, I think it was perfectly logical for CoreTel to want to use the existing device to expedite completion of the network.

Q. So your conclusion is that it was technically feasibility for CoreTel to use the existing facilities?

A. Yes. Spare capacity clearly existed. The sorts of trunks that CoreTel wanted Verizon to provision over the existing systems are the sorts of traffic that such multiplexers are designed to provide. There are no issues, from a technical standpoint, of CoreTel being considered a carrier while these devices were slated for retail use. Essentially a T1 is a T1 whether it is used for carrier grade service or customer grade service. Thus, I conclude that there was plenty of capacity and that CoreTel's planned bandwidth was clearly of a type that the existing devices were designed to handle. I also point out that with the large amount of space capacity on this particular multiplexer, it would be simple for Verizon to segregate CoreTel traffic from the traffic of the existing customers.

The only technical issue that I can imagine is one of routing. This issue would involve whether the existing device was routed to the same location where CoreTel needed to terminate. Historically, with older technologies, this was a very relevant question because in the past most high-capacity circuits were routed through the network on a dedicated point-to-point basis. In such a point-to-point architecture, a device like the one at the Baltimore location would have routed to one, and only one other location. However, the device at CoreTel's Baltimore location is routed onto a SONET fiber ring that connects to a number of locations in the Verizon network. Once on a SONET ring it is not necessary for all of the traffic on the OC-12 to terminate at the same Verizon node on the ring. For example, consider an OC-12 that is comprised of 4 OC-3s. With modern SONET technology, each of these OC-3s can terminate at a different Verizon location on the SONET ring. In CoreTel's case we suspect that this is not even an issue since the existing traffic on the OC-12 and CoreTel's planned traffic were probably both to be routed to the same tandem in Baltimore. Further, Verizon never raised any issues to suggest that the existing system did not route to the right locations. However, even if this was the case, the Verizon SONET network could handle routing different segments of the traffic to different locations that were part of the SONET ring.

In the end, with modern electronics, routing is more a matter of programming the electronics than it is of tracing the path of physical fibers. There is no technical reason that I can think of that would stop Verizon from mixing a carrier OC-3 and

a retail OC-3 on the same fiber. There is absolutely no issue that CoreTel's traffic would have somehow become "mingled" with other "retail" traffic on the OC-12 device. Modern electronics simply don't work that way. There was probably a time in the past when there were technical reasons for Verizon to have this prohibition of mixing retail and wholesale traffic. However, with modern electronics there is no functional reason that Verizon can suggest for not letting CoreTel use this existing facility, other than the mysterious "rule" that forbade it.

Q. Is your conclusion then that what CoreTel wanted to do was technically feasible?

A. Yes. Not only was it technically feasible, it was practically feasible. The device existed and had the spare capacity to fulfill CoreTel's requirements.

B. The Policy of Sharing Facilities

Q. One of the biggest disputed issues between the two parties is the unwillingness of Verizon to allow CoreTel, as a carrier, to share existing "retail" facilities. Can you elaborate on this issue?

A. Yes. I have alluded to this issue in the previous discussion. Verizon has a preference for segregating different classes of facilities. Before the advent of CLECs, the other carriers that Verizon had to deal with consisted mostly of

interexchange carriers (IXCs) and wireless providers. Most such traditional carriers interconnected into the Verizon network at a few well-defined locations. The traffic from such carriers was usually aggregated by the carriers and then handed to Verizon at a few locations. This made it very easy for Verizon to declare such handoff points to be "wholesale" connections.

I think Verizon probably created the distinction between wholesale and retail traffic in order to align its workforce with its customer base. For example, Verizon could dedicate employees specifically to work with the carriers since these carriers would appear in the network at just a few nodes on the network. However, the Telecommunications Act gave CLECs some new rights that did not always align perfectly with Verizon's historic workforce separation between wholesale and retail. For example, CLECs are allowed to connect with Verizon at any technically feasible location. The Act did not put any modifiers on this requirement to say at any technically feasible points "that are convenient for Verizon".

Q. Are you saying that the carrier versus retail distinction is somewhat obsolete?

A. Yes. With modern electronics and smart routing there is no reason that I can think of why an OC-12 at a network node can't share OC-3s or even DS3s from both retail and wholesale carrier customers. In the end, all that matters is that each type

of traffic ends up at the right ultimate terminating location in the Verizon tandem. Requiring the entire network to maintain this same separation no longer makes sense. In the modern tandem office, splitting traffic and delivering it to the right part of the tandem is easily achievable. In the end, the facilities that CoreTel wanted to use were technically feasible and Verizon should have moved forward with the interconnection request made by CoreTel.

Q. Did the FCC foresee new network arrangements in the 1996 Telecommunications Act?

A. I believe they did. The FCC foresaw that new CLECs would be making new requests on the RBOCs that were different than the ways the RBOCs had interconnected with other carriers in the past. In enacting the Act, there was lengthy discussion from the FCC on the topic of how and where a CLEC could interconnect with an RBOC and this led the FCC to adopt a basic right for CLECs to interconnect with the RBOC at any "technically feasible point". There was no mention, or even contemplation in the Act that the RBOCs could interpret this mandate in such a way as to require "separate but equal" new facilities for local interconnection. That is what the Verizon policy amounts to – they have set aside all existing field facilities by declaring them to be "retail". The practical result of doing this means that a CLEC must wait for the slow construction of new facilities, even when existing facilities already exist that would meet the CLEC's purpose. In CoreTel's case, Verizon's proposed solution was to place a new

"carrier" grade terminal right next to the old "retail" one that happened to be mostly empty. Thus, to me, Verizon's policy seems designed to delay CLECs and at the same time is very wasteful. All of the ratepayers of Maryland will ultimately pay for the investment in two mostly empty multiplexers that were constructed at one location. As one who has negotiated numerous interconnections I have seen a constantly shifting series of Verizon excuses and policies that seem like nothing more than pure excuses to make interconnection as difficult as possible. This particular policy is just one more policy that seems to serve no purpose but to slow CLECs from getting into business.

Q. Isn't what CoreTel requested the most efficient and cost effective way to interconnect with Verizon?

A. Yes. In CoreTel's case there was an existing multiplexer at two of the three initial locations where they requested interconnection. If Verizon had used the existing multiplexer, then CoreTel's interconnection request would have been processed immediately and Verizon would not have had to purchase new and wasteful hardware at these locations. What Verizon suggested as a solution for CoreTel – building a new multiplexer at each location, not only took a long time, but it cost Verizon, and ultimately the ratepayers in Maryland, a great deal of money for no apparent reason other than Verizon's CLEC "policy". As the Commission is well aware, allowing Verizon to install unneeded equipment in the network will eventually be reflected in Verizon asking for increased local rates. There seems to

be no reason to allow Verizon to adopt the separate but equal policy for CLECs when the ultimate result is a less efficient and more costly network.

C. Reasonable Time Frames

Q. At the forefront of the interconnection issue of the amount of time that Verizon takes to build the interconnection facilities. Do you have any comments concerning Verizon's time frame?

A. Yes. There are two issues concerning timing that I want to explore. First, I'd like to compare the time that it takes for Verizon to turn up new CLEC trunks to the amount of time it takes them to turn up equivalent facilities for other classes of customers. Next I'd like to discuss the difference between the time frame required to turn up of a CLEC's initial network and timeframes for subsequently augmenting and growing an existing network.

Q, Does Verizon treat all customers the same when it comes to turning up new services?

A. No they don't, and I think that gets to the heart of the matter in the CoreTel complaint. Lets look at a large retail customer who already has service from Verizon. Let's assume that this retail customer is one of sufficient size that Verizon has already installed a field multiplexer like the OC-3 or OC-12

multiplexers that existed at the planned CoreTel locations. What time frames would such a customer expect if they requested that additional circuits be installed on the existing multiplexer?

Years ago, before the Act, such a customer might have had a substantial wait for new service from Verizon. Installation dates have always been a bone of contention between retail customers and Verizon. However, most installation complaints come from those circumstances where new facilities must be built to meet the customer requirements. In this example we are looking at a situation where the field equipment already exists. I don't want to oversimplify such an installation, but this is of the type of installation that can be categorized in the category of "flipping a switch" to turn up new service. The field hardware already exists, the path between the Verizon tandem and that field hardware is fully defined. Turning up such a new circuit requires little more than creating the paperwork records necessary to document the service and of activating the pre-existing electronic path – flipping the switch.

I know of a number of examples where Verizon has installed new T1s or DS3s at the retail location in less than 30 days. I am sure that most such quick installations are of the type described here where the facilities between Verizon and the customer were already in place. I have seen a big shift in the way that Verizon treats its largest retail customers since 1996. Competition with CLECs has forced

Verizon to compete for the large customers and they have gotten faster and better in serving them.

Another large class of customers are the carriers, such as IXCs or wireless providers. It is a very typical situation in a carrier environment to pre-configure a large facility such as an OC-3 or OC-12 multiplexer for the very reason that Verizon can turn up circuits quickly should the need arrive. It is not unusual, when facilities are already in place, for carriers to get circuits in 30 days.

Q. If Verizon can turn up service for a retail customer or a carrier this quickly, is there any reason why they can't do this for a CLEC as well?

A. No. My answer is obviously that Verizon could turn up the CLEC quickly if Verizon wanted to do so. Again, let me reiterate that the circuits sold for retail and for wholesale CLEC provisioning are for practical purposes identical. If anything, retail circuits are sometimes more complex than wholesale interconnection circuits. Retail customers often have unusual hardware connection issues or unique signaling requirements while interconnection trunks tend to be about as vanilla as circuits can be.

In CoreTel's specific case, at the two locations where existing multiplexers existed, Verizon could have effectuated the desired circuits in a short period of time. Their failure to do so constitutes a lack of willingness to treat a CLEC in the

same manner they would treat a large retail customer or even another carrier like an IXC or a CMRS (*i.e.*, wireless) carrier. I think this unwillingness is at the CoreTel of why Verizon is not ready to be granted 271 authority in Maryland. They have repeatedly demonstrated a willingness to inflict delays upon CLECs. I personally believe that Verizon has established intentionally cumbersome to slow the CLEC process, but I expect that intent will never be provable. However, I don't think we need written proof of such a policy – the fact that CLEC implementations are routinely delayed is proof enough.

This particular issue really highlights the way that CLECs are treated differently than other large Verizon customers. Large retail customers tend to get the best service that Verizon has to offer (under the threat of taking their business elsewhere should Verizon fail to deliver). In order to respond to the needs of large customers, Verizon has undoubtedly created an internal workflow and paperwork process that allows them to handle large customers in an efficient way. However, Verizon doesn't handle CLECs in the same manner as they do large retail customers. Indeed, to satisfy its nondiscrimination obligations to CLECs, Verizon seeks to provide "separate but equal" treatment to CLECs, which, not surprisingly, results in results in discriminatory treatment to CLECs.

For example, Verizon has created a new department to deal with CLECs. All CLEC interface with Verizon must pass through this CLEC department and this is the CLEC's only point of contact with Verizon. Is this separate treatment

necessarily bad? Perhaps not theoretically. But in actual practice, CLECs experience delays and problems that are not faced by Verizon's large retail customers or other carriers. The new CLEC department at Verizon seems to be in a state of constant turmoil with high employee churn and with many inexperienced account representatives being assigned to CLECs. In practical terms, the CLEC department is often a bottleneck for a CLEC and is one reason why CLECs don't receive service of the same quality as that provided to large retail customers and to carriers.

Another reason for the inferior service that CLECs receive from Verizon is the seemingly never-ending creation of policies that are unique for CLECs. The primary example I am discussing in this testimony - the unwillingness of Verizon to share a "retail" facility with a CLEC - is just one example of a CLEC-only policy. These polices are unwritten and capricious. There is no way for a CLEC to know that such policies exist, and these policies are usually sprung on CLECs in the midst of trying to accomplish interconnection. In this case, CoreTel had an interconnection agreement that allowed for interconnection at "any technically feasible" point. However, after ordering interconnection this new Verizon policy surfaced that seems to have pre-empted Verizon's Act obligations. Time and again I have seen such mystifying new policies created out of thin air in the midst of a CLEC trying to implement a network. The end result of these surprise policies has always been delays in network implementation.

My bottom line observation is that CLECs don't get service of the same quality of as that afforded to other existing carriers and large retail customers. This clearly defies the intention of the 1996 Telecommunications Act where the FCC clearly stated that CLECs were not to be discriminated against by Verizon.

Q. Is there a distinction between the time required by Verizon to implement a new order for service and the time orders take as part of the ongoing planning and forecasting process. Can you elaborate?

A. Yes. I want to make sure that we keep these two circumstances clearly separated. The first situation is the one that was facing CoreTel – trying to establish the initial interconnection with Verizon in order to get into business. This is a critical to the success of a CLEC and time is usually of the essence to a startup CLEC like CoreTel. Until the network is up and running, a CLEC can't interchange traffic with Verizon, can't sell to customers and ultimately can't get any revenues. The inability to get trunks connected to Verizon will stop a CLEC dead in their tracks. As the Commission is aware, very few CLECs have sufficient funding to wait out Verizon's delaying tactics. Time is money, and most CLECs, like CoreTel, have sufficient funds to get into business, but don't have unlimited funds to wait out endless delays. Verizon knows this and I have always thought they have displayed what I have considered passive aggressive behavior with start-up CLECs. They are friendly enough in discussions, but they seem to constantly spring new reasons for delays in the initial interconnection with their network. I

honestly believe, after having worked with dozens of Verizon interconnections, that they delay CLECs purposefully.

Let's look at CoreTel's request again. CoreTel sought interconnection at a location where a transport path and multiplexing equipment already existed. It makes no sense to me that Verizon should be able to take more time to turn up these trunks than they would for a retail customer who was at that same pre-existing facility. Forgetting about the paperwork trail, from a practical engineering perspective a Verizon technician could effect turning up such trunks in a very short period of time. I think Verizon must be held to a standard whereby new interconnections are effectuated with all possible haste, within the bounds of common sense. What CoreTel requested and expected was both practical and reasonable. For Verizon to say that CoreTel had unreasonable expectations is to hide behind paperwork and excuses. The fact is Verizon could easily have done what CoreTel requested had the wanted to do so. I fully believe that they have an internal policy of delaying interconnection so that they can slow competitors from getting into business. They have seen CLECs come and go, and any little nudge they can give to a CLEC might contribute to them never showing up or of running out of funding. This is not what the FCC expected as an RBOC reaction to the Act, and it is not what this Commission should accept.

Q. Is this Verizon practice ongoing?

A. Yes. Verizon seems wholly committed to this discriminatory practice. As I noted above, Verizon informed CoreTel as recently as June 2002 that it would not use an existing "retail" facility to interconnect with CoreTel in Salisbury, Maryland.

D. CPN Issues

Q. CoreTel also has an issue with Verizon concerning CPN. Can you describe the issue?

A. Yes. CoreTel currently has MF (Multifrequency) trunks between it and Verizon. MF trunks are an older technology that has existed for many years, and are still being deployed by Verizon to long distance carriers, like AT&T. This was the major type of trunking that was in place before the advent of the SS7 network.

CoreTel's issue is that Verizon is refusing the transmit CPN information over the MF trunks. Verizon claims that CoreTel either needs to order IXC trunks (again, retail facilities) or establish SS7 trunking in order for Verizon to pass CPN.

Q. Why is this an issue for CoreTel?

A. CoreTel would like to use CPN to route certain types of data traffic for its end users. There is simply no reason for Verizon to refuse to pass this information to

CoreTel. Since Verizon won't supply CPN to CoreTel, CoreTel ends up with a diminished customer product.

Q. Is it technically feasible for Verizon to supply CPN over the MF trunks?

A. Yes. As I noted above, Verizon currently provides CPN to IXCs. I am mystified by Verizon's refusal to offer CPN. The Act clearly requires Verizon to offer nondiscriminatory service to CLECs. Because Verizon is capable of supplying the CPN and because they offer in other instances over the same type of trunking, they should be supplying it to CoreTel.

Q. Has CoreTel made this complaint to the Commission?

A. Not yet. However, since we have reached an impasse with Verizon we probably may have to do so. CoreTel finds it frustrating to keep having to bother the Commission with issues that ought to be routine, especially when Verizon passes this information to IXCs over MF trunks. We include in this 271 proceeding to point out to the Commission that our frustrations with Verizon seem to be never-ending. We have grown accustomed to getting no as the answer to anything we ask for from Verizon. We wish it were otherwise.

IV. DARK FIBER ISSUES

573 **Q. CoreTel also has a number of issues related to dark fiber. Can you**
574 **summarize the issues?**
575
576 A. Yes. CoreTel has filed a petition for dispute resolution against Verizon
577 concerning these issues that is ongoing at the Commission in Case No. 8910.
578 There are a number of specific issues that can be summarized by saying that
579 Verizon is offering the dark fiber UNE in such a way as to make it impractical for
580 a CLEC to use. Specifically, some of the issues include Verizon's refusal to
581 identify where dark fiber exists or to elaborate on the procedures it uses to define
582 dark fiber, Verizon's refusal to allow dark fiber connection at any technically
583 feasible location, and Verizon's requirement that CLECs collocate in order to
584 combine multiple dark fiber UNEs. In the end, CoreTel believes that Verizon has
585 created a set of rules concerning dark fiber UNEs that makes it practically useless
586 as a CLEC tool. This violates checklist items 2, 4 and 5, and is further evidence
587 that Verizon has not taken competition seriously in Maryland.
588
589 **Q. How do Verizon's dark fiber policies affect CoreTel and other CLECs?**
590
591 A. The FCC created the dark fiber UNE as a way to further promote competition.
592 They recognized, rather early after the implementation of the Act that the various
593 RBOCs had made transport a major hurdle for CLECs. The FCC then created the
594 dark fiber UNE as an additional transport tool for CLECs to effectuate
595 interconnection and to overcome transport issues. However, in the practical

application of the dark fiber UNE, Verizon and the other RBOCs have made it virtually unusable as a wholesale product. The Verizon procedures for ordering dark fiber are almost automatically doomed to failure. The proof of this is that is practically no dark fiber UNEs in use by CLECs anywhere in the US. Indeed, I believe Verizon's filing in this proceeding suggests that Verizon has provided only two dark fiber UNEs in Maryland to date. Below I will describe the Verizon dark fiber policies and describe the steps that would be needed to make the dark fiber UNE a reality for CLECs, as intended by the FCC and the Act.

The inability to order dark fiber harms CoreTel. As I noted above, CoreTel offers a set of non-traditional products. CoreTel's preference is to operate a network on a pure Ethernet basis, and CoreTel is settling for an inferior alternative when they accept Verizon's standard SONET bandwidth offerings. CoreTel is willing to make the investment in the fiber electronics necessary to provide the service its customer's desire. The FCC created the dark fiber UNE just for CLECs like CoreTel. The dark fiber UNE requires a substantial investment from CLECs in electronics and the FCC has always looked for ways to encourage CLECs to make permanent network investments. The FCC has reasoned that such investments make for permanent competition. The inability of CoreTel to obtain dark fiber means that it is operating less efficiently than it would desire. It also means that CoreTel is often unable to deliver the services that its customers desire.

A. Current Procedures Destined for Failure

Q. You said that the current dark fiber rules that govern the use of the dark fiber UNE by Verizon are doomed to failure. Can you elaborate?

A. Yes. After the FCC ordered the creation of the dark fiber UNE Verizon established a procedure for CLECs to use when ordering dark fiber. These rules simply cannot work. CoreTel and Verizon are at an impasses since Verizon refused to accept any of CoreTel's ideas, and the topic is now at the Commission as part of Case No. 8910.

Basically, the Verizon rules make it virtually impossible for a CLEC to plan and create a network that relies on any dark fiber UNE. First, Verizon will not publish a list of where dark fiber exists. Instead, they require that CLECs ask for dark fiber, on a route-by-route basis. Verizon then determines whether dark fiber is available on the route (or to quickly determine that they want to keep it all reserved for future use). Verizon does not have any stated formula or procedure for defining dark fiber. This means that they are able to determine, again on a route-by-route basis, if they have any dark fiber available. I believe that Verizon does not want to lease dark fiber to CLECs and this ordering process makes it easy for them to declare that no dark fiber is available for any route that a CLEC happens to be interested in.

Q. Are you implying that Verizon is not being honest when it says there is no dark fiber available on a given route?

A. I can't say that for sure, although I suspect it is the case. I do note that it is easy and painless for Verizon to provide dark fiber (and information related to the location of such fiber) – which is exactly why we need a better solution. What I do believe is that the current dark fiber rules are so undefined that is very easy for Verizon to say no to most dark fiber orders. This does not mean that dark fiber does not exist that could satisfy a CLEC's request. It is very convenient for Verizon to declare that a given route has no dark fiber because there are no defined rules to determine exactly what dark fiber is and if it exists on a given route. As it turns out, when Verizon declares a given route has no dark fiber that this usually kills the CLEC's request from a practical standpoint. Again, since timing and speed to installation is almost always an issue for a CLEC, then getting a negative answer to a dark fiber request means the CLEC runs out of time and options for using the dark fiber. Even if the CLEC were to challenge Verizon on each negative response, by the time the dark fiber was finally allowed there is a high likelihood that the CLEC would no longer need it for the specific solution they were seeking. Verizon has every motivation to make it difficult to get dark fiber, since delaying means that requests evaporate.

Q. Can you explain in more detail why Verizon's procedure won't work for CoreTel or other CLECs?

A. Yes. Dark fiber is normally just one component of creating a network. Typically a CLEC like CoreTel decides to create a new leg of a network based upon trying to meet the requirements of a specific customer. Most CLECs today have ditched the philosophy of "build it and they will come" and instead build only to serve specific customers who want to use their services. Because CoreTel usually has a specific customer in mind when it wants to expand the network, time becomes an important element in any solution that CoreTel wants to implement. If CoreTel can't effectuate a solution in a reasonable amount of time, then the customer involved will look elsewhere for a solution and CoreTel will no longer need the new portion of network, including the dark fiber UNE.

What this means is that in order for a dark fiber UNE to be usable, the procedure for obtaining dark fiber must be clearly defined and have some reasonable chance of timely success. Verizon's current process is a black hole in that the rules are unclear and in that a CLEC has no idea if there is any chance of success when ordering dark fiber.

It is important to understand that dark fiber is usually only one component of a solution for a specific customer. The dark fiber UNE might allow CoreTel to get a high-capacity loop to the customer or else supply a portion of the network needed to fulfill the customer's requirements. Rarely would I expect that dark fiber would be the total solution for a customer's needs. Since dark fiber is just a piece of the

687 solution, CoreTel's engineers need to know early in the planning process if dark
688 fiber is going to be part of the proposed final solution for a customer.
689
690 This is why CoreTel thinks that it is essential for Verizon to do two things they
691 aren't currently doing. First, Verizon should establish and publish the rules it uses
692 to define dark fiber. Any such definition needs to define very clearly how Verizon
693 reserves fiber pairs to account for future growth and for spare capacity on any
694 given fiber route. Absent such specific rules, it is far too easy for Verizon to
695 declare that any route that a CLEC wants happens to have no spare dark fiber
696 capacity. Without defined rules, Verizon is able to define the rules on a route-by-
697 route basis and keep dark fiber away from CLECs.
698
699 The second step that we think is necessary to keep Verizon honest is to require
700 that they periodically publish a list of routes that contain dark fiber, based upon
701 the dark fiber definition mentioned above. In testimony already filed, Verizon
702 says that publishing an inventory of dark fiber would be too difficult. However,
703 there are ways to publish such a list without creating difficulties for Verizon. For
704 example, they could publish a list periodically, say every six months or a year.
705 We don't see that it is necessary that they keep such a list totally updated at all
706 times – it's more important to CoreTel that they be given some indication where
707 dark fiber exists. We don't think that the overall amount of dark fiber in the
708 Verizon system changes rapidly, and a periodic list should be sufficient to assist
709 CLECs in network planning. We understand that things change in the network

and that sometimes that some fiber that was thought to be spare might suddenly find a use. However, we know that scattered throughout the Verizon system is a tremendous amount of dark fiber. There are a number of reasons for dark fiber to exist that I won't elaborate here, but it exists in every fiber network ever built. The FCC has required ILECs to maintain similar availability information for items such as collocation space, and there is simply no reason why similar information could not be made available for dark fiber.

Absent these two requirements for Verizon, we don't believe that CoreTel or any other CLEC will ever have much luck in realistically using dark fiber. The current Verizon process is unworkable – as evidenced by the *de minimis* number of dark fiber UNEs provisioned in Maryland. The CLEC must submit requests for each route they are interested in and then wait until Verizon tells them if dark fiber is available. There are several problems with this process. First, it takes too long. By the time that Verizon gets back to the CLEC, the useful ability to use dark fiber is often gone. CLECs must find solutions for customers in a reasonable time or else the opportunities evaporate. It's the rare customer who will wait for a long time to get a solution. The more important problem is that there are often multiple ways that the Verizon network can connect two points. The CLEC can't be expected to understand the nuances of the Verizon network, and thus it is almost impossible for the CLEC to know what to even request from Verizon. For example, if a CLEC is looking to create a route from point A to B, Verizon may have several network options for getting between the two points with fiber.

I equate the current Verizon rules to the game of Battleship. In Battleship, a player must make repeated wild guesses as to the location of the enemy's ships. The CLEC must do the same thing in the current procedure with dark fiber. Without knowing how Verizon routes its fibers, where they have nodes and access points, where rings exist, etc., the CLEC must place requests that are nothing more than wild guesses as to where dark fiber might exist. If the CLEC guesses wrong then they can't get dark fiber. This doesn't mean that there isn't a dark fiber solution available, it just means that the specific request that the CLEC made won't work. There might be several alternatives that would supply the same solution, but the CLEC can never know this. However, if they knew more about the Verizon network they might have been able to create a solution, or part of a solution using the dark fiver UNE. As it works today, the process is heavily stacked against the CLEC for ever getting dark fiber in a reasonable time frame.

I think that the FCC requirement that created the dark fiber UNE automatically created a subsequent obligation for the RBOCs to create a workable methodology that would enable CLECs to use the new UNE. If not, then the FCC order has no teeth. The methodology proposed by Verizon does not work, which is clearly evidenced by the incredibly few instances where CLECs have been able to get dark fiber in Maryland and elsewhere. It has been my experience that most CLECs won't use any wholesale product where the RBOCs throw up a major barrier, and the RBOCs have relied on that reluctance to create barriers for new

UNE products like dark fiber and EELs. Verizon has argued that there isn't much demand for dark fiber and they claim the small number of dark fiber UNE orders is proof of this. I believe instead that the CLECs know that the current methodology is destined for futility and failure and that few CLECs are as willing as CoreTel to fight the regulatory battles needed to get what is rightfully theirs.

B. Dark Fiber Technically Feasibility Issues

Q. There are a number of technical issues at contention between Verizon and CoreTel concerning the practical use of dark fiber. Can you summarize these issues?

A. Yes. One of the important issues is the ability of a CLEC to order access to dark fiber UNEs at any "technically feasible" point. This issue raises the issue of where and how a CLEC can realistically gain access to a dark fiber UNE. Related to this issue is the issue of "combining" multiple dark fiber UNEs in order to create a usable path. I will discuss each of these issues in more detail below.

Q. One point of contention between CoreTel and Verizon is what constitutes a "technically feasible" interconnection point for obtaining dark fiber. Can you elaborate on this issue?

A. Yes. CoreTel believes Verizon's definition is too restrictive and does not follow the FCC and the 271 checklist requirement that CLECs be allowed to access to interconnection and UNEs at technically feasible points.

It will be useful to frame this discussion by describing how fiber networks are constructed and how various types of splices are created in the network. Splices come about in two ways. First, a splice is created where Verizon has to combine two pieces of raw fiber in order to make a continuous run. Since fiber is delivered on large reels, these sorts of splice points can end up almost anywhere in the network where a reel happens to end during construction. Sometimes these splice points are buried or on poles in the middle of nowhere -- wherever the construction crew happens to be when they are forced to change fiber reels or change the size of a cable. At this type of a splice point Verizon will have a splice box, which is a protective box covering the place where the two fibers had to be connected. This splice box is not usually large and is a sealed unit. This is not necessarily a place where Verizon would ever again tap into the fiber, and in fact in some ways it is a weak point in the network. This box may well be buried or otherwise inaccessible. CoreTel is not seeking to connect at these types of splice points.

The second type of splice in the network is a voluntary splice point. This is any location where Verizon has designed for future access to the fiber. Such splice points may be at major Verizon locations like a central office, or at large customer

801 locations. Such splice points are often also created at locations where the design
802 engineers expect there might be future need for a fiber spur, such at a potential
803 location for a future large business or housing development. These voluntary
804 splice points are thus at any junction in the network where Verizon has put
805 electronics or has designed the ability to easily put electronics in the future.
806
807 Verizon refers to points where electronics exist in the fiber network today as
808 "accessible terminals" and they believe that these are the only places where
809 CLECs should have access to the dark fiber UNE. However, in addition to
810 "accessible terminal" locations, a fiber network will contain other planned and
811 functional splice points. These are locations where easy access to the fiber has
812 been designed and created so that the fiber can easily be tapped at a later date. I
813 would like to refer to such locations as "designed access points". Such locations
814 don't necessarily have any current splices at them and the fiber may even pass
815 through these places uncut today. However, these locations have been built to
816 afford easy future access. There are a number of ways to design easy access to a
817 fiber and I expect that all of these various access methods can be found within the
818 Verizon network. One common type of hardware one might see at a designed
819 access point is a handhole. This is a small device that allows one to peer inside the
820 sheath and actually look at and work on the fiber pairs. This is the most common
821 type of access device built into most fiber networks. However, there might also be
822 designed access points in manholes, in field cabinets, at large customer sites and
823 other such places where the engineers have designed for future access to the fiber.

CoreTel believes that these "designed access points" are, by definition, locations where connection with the Verizon fiber network is technically feasible. These locations were designed specifically to allow easy access to the fiber in the future as needed. Verizon routinely taps into these designed access points as they expand the fiber network to meet customer demands.

The current dark fiber UNE procedures do not recognize designed access points as potential technically feasible locations for a CLEC to utilize on the network. Unfortunately, such designed access points are not going to be easy for a CLEC to know about. If the cable has never been cut or spliced at a specific handhole, then there probably won't be a CLLI code or any other easy record indicating that it even exists. Handholes are very routinely hidden inside of larger cabinets and such places that make it hard for the non-Verizon person to know they even exist. However, these designed access points are clearly technically feasible points of interconnection, because that is what they were designed to do – allow access at some future time.

Q. Is there a practical way that CLECs could use "designed access points" as you have defined them?

A. I believe there is. In addition to requiring Verizon to periodically publish a list of available dark fiber routes, I think it is necessary to require Verizon to allow

meetings with their engineers to look at the details of potential dark fiber routes. In such an engineering meeting a CLEC might find that there exists technically feasible designed access points that would otherwise be unknown for them. The current methodology of requiring CLECs to submit written requests for specific point-to-point connections will never take the place of such engineering meetings where the engineers on both sides could discuss the fiber route in enough detail to make the dark fiber UNE practical.

Q. What about Verizon's contention that dark fiber UNEs can only be ordered where electronics exist today?

A. I think it is clear that Verizon's definition of technically feasible connection point is too narrow. I believe that CoreTel's definition of "designed access point" is more in line with the intent of the Act. Such points are, by definition, technically feasible for interconnection because they were designed for just that purpose. CoreTel should be able to connect to dark fiber at a handhole, a basement, a hut where the fiber has clearly been designed for easy access – and the existence, or non-existence of current Verizon electronics should have nothing to do with CoreTel's access. By definition each party will use the network in a different way, and CoreTel's most effective use of a dark fiber UNE should not be restricted by the way that the Verizon engineers have elected to access the lit pairs on the fiber. Dark and lit fiber pairs, by definition, have nothing to do with each other.

C. Continuous Path Issue

Q. In their papers in Case No 8910 Verizon has raised one additional technical issue – how CoreTel or other CLECs should be able to join various pieces of dark fiber together to create a continuous path. Can you elaborate on this issue?

A. Yes. Verizon has taken the position that CoreTel would need to collocate at any location where they want to connect two dark fiber UNEs. I believe this requirement is not always practical and want to demonstrate how such a requirement would be a barrier to effective competition.

This issue hails back to an issue I mentioned earlier – how a CLEC might create a usable path between two points. Let's look at a practical example. The attached diagram (*see* Tab A) shows an example of a situation where there are two different ways that a connection can be made between Point A and Point B. Path 1 is a direct fiber path that connects between the two locations. Ideally there would be dark fiber available on this path. However, let's suppose there isn't but that dark fiber exists on Path 2 that happens to connect through multiple Verizon locations between Point A and Point B.

Verizon says they would not complete the order for a dark fiber UNE on Path 2 unless there was a clear unbroken line of fiber completely between Points A and

B. Let me show why this makes no practical sense. First, accept my assumption that Path 2 can be created by using existing Verizon fiber - each of the legs on Path 2 is on Verizon fiber. However, Verizon may or may not have a continuous lit path on this route. Verizon might be lighting different legs of this route with different electronics and there may be no continuous Verizon fiber optics signal on Path 2. I don't believe that a lit Verizon path is a necessary precursor to allowing a CLEC to get dark fiber on Path 2. Let's further assume that at one or more places on Path two that the fiber is not physically connected. The fiber is present that can complete this path, but it doesn't happen to be spliced together.

How could the CLEC make a practical dark fiber circuit out of Path 2? As Verizon suggests, the CLEC could order a dark fiber UNE for each of the unbroken legs that make up Path 2. Verizon would then have the CLEC collocate at each place where the fiber is not connected in order for the CLEC to effectuate a fiber "jumper" or a very short splice needed to connect the ends of the different dark fiber UNEs?

Why isn't that practical? There are two reasons. First, looking this diagram one can see that two of the splice points are at handholes while one is at a customer location. There are many practical reasons why the CLEC might not be able to collocate at these sorts of locations. First, there is no need to mandate collocation to run a basic jumper cable. Second, handholes are small devices and they could easily be located at some place where the CLEC would be unable to obtain collocation space close enough to be effective. These handholes could be on a

pole, underground or located on property where the CLEC can't get access. In such cases collocation would be impossible and the dark fiber route could not be created by the CLEC. Also note that one of the splice points is at a customer location. This customer is not obligated to allow the CLEC to collocate there and probably would not do so.

Remember that the dark fiber UNE applies to any portion of the Verizon fiber network. It's easy to think of the dark fiber UNE in terms of normal carrier-to-carrier fiber routes where it is routine for carriers to collocate. However, as this route shows, many Verizon fiber routes are customer routes, and as such they can be routed to many locations where the CLEC may not have the same access as does Verizon as the incumbent.

Because the CLEC would often be unable to collocate in order to complete the connection between two pieces of fiber, then another solution must be found. A CLEC should be able to order (or self provision) a dark fiber jumper at those locations where two pieces of dark fiber are not "continuous". Such a connection should be priced out to reasonably compensate Verizon for performing the jumper work and I would expect such a jumper to have a high non-recurring cost.

In asking for this jumper is the CLEC asking for something that Verizon would never do for themselves? Of course not. In fact, in this same example Verizon might well have created such jumpers to create a lit circuit on Path 2 without

939 bothering to splice the unused dark fiber pairs (*see* Tab A). Whenever Verizon
940 needs to join two pieces of fiber together in the field they obviously do so – there
941 are no engineering or technical reasons why they wouldn't do so.
942
943 **IV. CONCLUSION**
944
945 Q. Does this conclude your testimony?
946 A. Yes.

EXHIBIT B

DUPLICATE

BEFORE THE MARYLAND PUBLIC SERVICE COMMISSION

Case No 8921

In the Matter of the Review by the Commission Into Verizon Maryland Inc.'s Compliance with the Conditions of 47 U.S.C. § 271(c)

DIRECT TESTIMONY OF BRET L. MINGO

ON BEHALF OF CORE COMMUNICATIONS, INC.

Dated: July 15, 2002

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS?

A. My name is Bret L. Mingo. I am president and CEO of Core Communications, Inc. ("CoreTel"), a CLEC with substantial operations in Maryland. My business address is 209 West Street, Suite 302, Annapolis, Maryland 21401.

I. INTRODUCTION AND SUMMARY

Q. PLEASE DESCRIBE YOUR QUALIFICATIONS AND EXPERIENCE AS THEY RELATE TO THIS PROCEEDING?

A. As part of my responsibilities, I directly oversee all aspects of CoreTel's provision of telecommunications services, including interconnection with Verizon, provisioning of high capacity special access and PRI services from Verizon and other LECs, and provisioning of interLATA circuits from IXCs. Prior to founding CoreTel in 1997, I consulted to area ISPs regarding provisioning of special access and InterLATA circuits from telecommunications carriers.

Q. WHAT IS THE PURPOSE, GENERALLY, OF YOUR TESTIMONY?

A. The purpose of my testimony is to describe two anticompetitive interconnection policies that Verizon maintains in Maryland. First, I would like to discuss Verizon's refusal to use existing telecommunications equipment to interconnect with carriers, like CoreTel

that seek entrance facility interconnection with Verizon. Specifically, Verizon refuses to use existing facilities because they are "inventoried" as retail facilities. Rather than use existing facilities, Verizon constructs new facilities, which are both unnecessary and time consuming. Second, I would like to discuss Verizon's refusal to pass Calling Party Number ("CPN") over interconnection trunks to CoreTel. This unilateral Verizon greatly hampers CoreTel's ability to deploy new services.

II. VERIZON'S ENTRANCE FACILITY INTERCONNECTION POLICIES UNLAWFULLY DISCRIMINATE AGAINST CORE IN VIOLATION OF CHECKLIST ITEM 1

Q. PLEASE PROVIDE AN OVERVIEW OF THE VERIZON INTERCONNECTION POLICY THAT DISCRIMINATES AGAINST CORETEL?

A. As I mentioned above, Verizon's refusal to use existing facilities to provide interconnection to CoreTel discriminates against CoreTel in favor of Verizon and its retail organization. CoreTel has been the victim of this unilateral Verizon policy in three out of the four interconnection points (Baltimore, Damascus, and Mount Airy) that CoreTel has established with Verizon in Maryland, and Verizon recently informed me that Verizon would enforce this same unilateral policy against CoreTel in Salisbury. This has been an on-going problem for CoreTel since 1999. This was not an issue at our Easton, Maryland point of interconnection because there were no existing facilities at that location.

Q. HAS CORETEL RAISED THIS ISSUE WITH THE COMMISSION IN OTHER PROCEEDINGS?

A. Yes. CoreTel filed a complaint against Verizon Maryland in October 1999 (Case 8881). That proceeding is ongoing.

Q. HAS VERIZON RAISED ANY ISSUES OF TECHNICAL FEASIBILITY REGARDING THE USE OF EXISTING FACILITIES TO PROVIDE ENTRANCE FACILITY INTERCONNECTION TO CORETEL?

A. No. So far as I can tell, Verizon admits that use of existing facilities is technically feasible for the type of interconnection that CoreTel establishes with Verizon. Indeed, in the unrebutted direct testimony of Todd Lesser in Case 8881 demonstrates that Verizon has provided exactly the type of interconnection that CoreTel seeks to a carrier called North County Communications in West Virginia. I've attached a copy of that testimony hereto as Exhibit A.

Q. DOES VERIZON CONSISTENTLY REQUIRE DEDICATED FACILITIES FOR INTERCONNECTION PURPOSES IN YOUR EXPERIENCE?

A. No. As I showed above, Verizon has provided exactly the type of interconnection that CoreTel seeks to at least one other carrier in at least one other state. In my experience, Verizon does not consistently, or rationally, require the use of dedicated physical facilities

for interconnection purposes.

As another, more subtle example, Verizon has delivered a special access (retail) DS3 circuit to CoreTel at our Damascus Wire Center (located in the Maryland portion of the D.C. LATA), using the same multiplexer and associated transport facilities that Verizon had previously installed, and has used ever since, for interconnection (wholesale) purposes. So it seems that Verizon is willing to use "wholesale" facilities for new "retail" services, but will not use "retail" facilities for new "wholesale" facilities. The explanation for this inconsistency in Verizon policy is simple: Verizon prefers to provide "retail" services than "wholesale," interconnection services because Verizon makes more money providing retail services.

Q. WHY DOES VERIZON'S FAILURE TO PROVIDE THIS TYPE OF INTERCONNECTION VIOLATE THE SECTION 271 COMPETITIVE CHECKLIST?

A. Although I am not a lawyer, I know that item one of the competitive checklist requires Verizon to provide CLECs with interconnection at any technically feasible point, according to terms and conditions that are just, reasonably, and nondiscriminatory. The nondiscrimination term forbids Verizon from discriminating among interconnecting carriers, or in favor of Verizon itself. There is no technical reason for Verizon's refusal; rather, Verizon seeks to benefit its retail organization by providing it faster service.

For example, if a carrier orders high-capacity special access ("retail") from Verizon, those

services are delivered by Verizon's retail organization in a month or less from existing facilities. If a carrier orders high-capacity interconnection ("wholesale") services from Verizon, those services are delivered by Verizon's wholesale organization six months to a year later, after new facilities are constructed. This discrimination is as obvious as it is ridiculous.

In Case 8881, Commission Staff filed very persuasive testimony that supports CoreTel's view. I've attached a copy of that testimony hereto as Exhibit B.

Q. HAS THIS TYPE OF INTERCONNECTION ISSUE COME UP IN ANY OTHER SECTION 271 PROCEEDING?

A. Not that I'm aware of. Most CLECs use the "collocation" method of interconnection, which makes sense for carriers that buy unbundled network elements ("UNEs") from Verizon. At present, CoreTel does not purchase UNEs from Verizon. Rather, CoreTel uses its own facilities or facilities leased from other carruers. As noted in the testimony of Doug Dawson, CoreTel is attempting to get dark fiber UNEs from Verizon, but that process is stalled. Moreover, neither SBC nor Qwest enforce a similar policy (as noted in the Lesser testimony attached hereto). In any event, I do not believe that it has been addressed in past section 271 proceedings because vocal commenters in those past proceedings apparently do not utilize this method of interconnection.

III. VERIZON'S POLICY TO REFUSE TO PASS CPN TO OVER INTERCONNECTION TRUNKS UNLAWFULLY DISCRIMINATES AGAINST CORE IN VIOLATION OF CHECKLIST ITEM 1

Q. PLEASE DESCRIBE CPN?

A. CPN is essentially an end user's telephone number, which is passed between carriers terminating calls. Verizon presently passes CPN to IXCs over Multifrequency ("MF") trunks, which is the kind that CoreTel uses to interconnect locally with Verizon. Verizon also passes CPN to CLECs over SS7 trunks.

Q. WHY WON'T VERIZON PASS CPN TO CORETEL OF MF TRUNKS?

A. Verizon has no technical issue with CoreTel's request. This is another Verizon "policy" – a policy that Verizon won't pass CPN over MF trunks to CLECs for local services. I believe that Verizon would like CoreTel to establish an SS7-based trunking network. However, CoreTel has no desire or need to establish such a network for the local data applications that CoreTel provides. When CoreTel needs SS7 to support a product for its end users, CoreTel will deploy SS7. Verizon has no right to dictate what type of signaling network that CoreTel utilizes.

Q. HAS VERIZON OFFERED ANY ALTERNATIVE OTHER THAN SS7 TO OBTAIN CPN?

A. Yes. Verizon has stated that it would pass CPN to CoreTel if CoreTel were to buy retail IXC trunks from Verizon. As a CLEC, however, CoreTel has no need to buy retail trunks. Verizon clearly is just trying to raise CoreTel's cost of doing business.

The functionality that CoreTel requests is a readily available feature of all MF trunks. As such, the only explanation for Verizon's refusal is its desire to slow roll CoreTel's business plan and market entry strategy by providing discriminatory interconnection. However, these discriminatory interconnection practices violate the section 271 checklist, and therefore, the Commission should reject Verizon's effort to obtain interLATA long distance authority in Maryland.

IV. CONCLUSION

Q. DOES THAT CONCLUDE YOUR TESTIMONY?

A. YES, IT DOES.

TAB A

BEFORE THE MARYLAND PUBLIC SERVICE COMMISSION

Case No 8881

In the Matter of the Complaint of Core Communications, Inc. against Verizon Maryland, Inc. for Breach of an Interconnection Agreement And Request for Immediate Relief

DIRECT TESTIMONY OF TODD LESSER

ON BEHALF OF CORE COMMUNICATIONS, INC.

Dated: September 20, 2001

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS?

A. My name is Todd Lesser. My business address is 3802 Rosecrans Street, #485, San Diego, CA 92110. My telephone number is (619) 364-4750.

Q. PLEASE DESCRIBE YOUR QUALIFICATIONS AND EXPERIENCE AS THEY RELATE TO THIS PROCEEDING?

A. I am President of North County Communications ("NCC"), and I have had that position since I founded NCC in 1995. NCC is a privately-held, facilities-based competitive local exchange carrier based ("CLEC") in San Diego, California. I have substantial experience in telecommunications, including obtaining local interconnection with a number of Bell Operating Companies, including Qwest, SBC, and Verizon.

Q. PLEASE DESCRIBE THE TYPE OF INTERCONNECTION NCC HAS OBTAINED TO DEPLOY ITS LOCAL TELECOMMUNICATIONS SERVICES.

A. In deploying local telecommunications services to its customers, NCC has established entrance facility interconnection with SBC, Qwest, and Verizon.

Q. PLEASE DESCRIBE YOUR ENTRANCE FACILITY INTERCONNECTION EXPERIENCE WITH SBC AND QWEST.

A. SBC and Qwest routinely establish CLEC entrance facility interconnection with NCC in approximately 30 days. In so doing, both SBC and Qwest treat requests for entrance facility interconnection the same way SBC and Qwest treat requests for special access service, which is analogous to CLEC entrance facility interconnection. Both SBC and Qwest deploy CLEC entrance facility channel capacity over a SONET ring shared by multiple SBC and Qwest customers, including CLECs, long distance companies, and retail end users. Neither SBC nor Qwest mandate deployment of any separate

"wholesale" facilities to provide entrance facility interconnection to CLECs. Rather both SBC and Qwest use existing capacity on shared SONET rings to provide entrance facility interconnection to CLECs, such as NCC.

Q. PLEASE CONTRAST NCC'S EXPERIENCE IN OBTAINING ENTRANCE FACILITY INTERCONNECTION WITH SBC AND QWEST TO THAT OF VERIZON.

A. In contrast to the relatively straightforward practices of SBC and Qwest, Verizon has taken the position that it will not provision CLEC entrance facility interconnection over shared SONET rings using existing capacity. Rather than use existing spare capacity, Verizon deploys new dedicated SONET rings and multiplexer pairs in providing entrance facility interconnection to CLECs. These practices are needlessly expensive and create needless delay.

Regarding cost, conservatively I estimate that Verizon incurs at least $100,000 in expenses in deploying a dedicated SONET ring and multiplexer pair in establishing a single CLEC entrance facility interconnection. I don't know how Verizon recovers the cost of these buildouts; however, I do know that Verizon could avoid these expenses if it deployed CLEC entrance facility interconnection the same way that SBC and Qwest provide CLEC entrance facility interconnection.

Regarding delay, while it takes SBC and Qwest approximately 30 days to establish CLEC entrance facility interconnection, it takes Verizon over a year in some instances to provide CLEC entrance facility interconnection. In my opinion, this is absolutely ridiculous, especially since it is entirely unnecessary for Verizon to deploy a

dedicated SONET ring and multiplexer pair to establish CLEC entrance facility interconnection.

As an example, it took Verizon over a year to provide CLEC entrance facility interconnection to NCC in Charleston, West Virginia. Interestingly, after repeated delays in establishing the "dedicated SONET ring," Verizon agreed to provide interconnection to NCC in Charleston, West Virginia over a shared retail SONET ring during July 2001. Verizon indicated that once it completed the "dedicated SONET ring," it would migrate NCC's traffic from the shared retail SONET ring to the dedicated SONET ring. Had Verizon agreed to this at the outset, I would have been operational in West Virginia approximately one year ago. Instead, due to Verizon's needlessly costly and time consuming process, I have just started to enter the West Virginia market.

Q. DO YOU HAVE ANYTHING ELSE TO ADD?

A. Yes. To briefly summarize, I have first-hand experience obtaining CLEC entrance facility interconnection with SBC, Qwest, and Verizon. What takes SBC and Qwest approximately 30 days, takes Verizon approximately one year. CLEC entrance facility interconnection takes a year in the Verizon territory because of Verizon's general refusal to provision CLEC interconnection capacity over SONET rings shared by Verizon's retail customers and interexchange carrier customers. Instead, Verizon builds out a new, dedicated SONET ring and deploys a pair of dedicated multiplexers for CLEC entrance facility interconnection, even in cases where ample spare capacity exists on SONET rings classified as "retail" by Verizon.

Q. DOES THAT CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

IN THE MATTER OF THE COMPLAINT	*	
OF CORE COMMUNICATIONS, INC. VS.	*	CASE NO. 8881
VERERIZON MARYLAND, INC.	*	

DIRECT TESTIMONY

OF

STEVE MOLNAR

ON BEHALF OF THE STAFF
OF THE
PUBLIC SERVICE COMMISSION OF MARYLAND

September 21, 2001

TABLE OF CONTENTS

INTRODUCTION

Q. PLEASE STATE YOUR NAME AND OCCUPATION.

A. My name is Steve Molnar. I am a regulatory economist in the Telecommunications Division of the Public Service Commission of Maryland.

Q. PLEASE OUTLINE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. I received a Bachelor of Arts degree in accounting from Syracuse University in 1976 and a Master of Business Administration degree from Rensselaer Polytechnic Institute in 1981. I held various accounting positions in private industry until accepting employment with the Public Service Commission in 1984. Other positions I have held at the Commission include cost of capital analyst, fiscal administrator, and Assistant Chief Auditor, all in the Accounting Division.

Q. WHY WAS CASE NO. 8881 INSTITUTED?

A. Core Communications, Inc. ("Core") filed a complaint with the Commission on October 8, 1999, alleging that Verizon Maryland Inc. ("Verizon") breached its Interconnection Agreement with Core. On January 17, 2001,

Core filed an Amended Complaint that raised new issues for the Commission to consider.

Although Verizon eventually provided interconnection to Core, the Commission found that the issues raised in the Amended Complaint required further investigation.[1] More specifically, the Commission was concerned as to whether the terms of the Interconnection Agreement were followed, and whether Verizon treated Core in the same manner as it treated itself. The instant proceeding was instituted to examine these issues.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. The purpose of my testimony is to discuss certain issues raised in the Amended Complaint. The Amended Complaint consists of five counts that relate to Verizon's interconnection policies and practices as summarized below. My testimony will address all five counts. However, because the issues related to Counts II-IV are interrelated, I will discuss them together.

Count I: Verizon failed to provide interconnection within 45 days as specified in the Interconnection Agreement between the parties.

Count II: Verizon failed to provide interconnection on the same terms and conditions that it provides to its own retail customers.

Count III: Verizon failed to provide interconnection with spare facilities that were available at the time of the request for interconnection.

Count IV: Verizon unnecessarily delayed Core's entry into the marketplace with tactics that violated the Interconnection Agreement between the parties.

Count V: Verizon failed to provide interconnection within a reasonable time frame.

Q. WHAT RELIEF DOES CORE REQUEST FROM THE COMMISSION?

A. Core requests that the Commission find that Verizon breached its Interconnection Agreement with Core and that Verizon's practices violated Maryland and Federal law as described in each of the five counts.

TIME REQUIRED TO COMPLETE INTERCONNECTION

Q. WHAT IS THE ISSUE WITH RESPECT TO THE TIME FRAME IN WHICH VERIZON PROVIDED INTERCONNECTION TO CORE?

[1] Letter from Executive Secretary to Core and Verizon instituting Case No. 8881, dated February 26, 2001.

A. The Amended Complaint alleges that Appendix 1 §§4.4.1 – 4.4.5 of the Interconnection Agreement requires Verizon to provide interconnection within 45 days after interconnection is requested. Verizon denies Core's allegation and states that the provisions of the Interconnection Agreement that Core cites do not apply to initial requests for interconnection.

Q. WHEN DID CORE REQUEST INTERCONNECTION WITH VERIZON FOR ITS BALTIMORE WIRE CENTER AND HOW LONG DID IT TAKE FOR INTERCONNECTION ARRANGEMENTS TO BE COMPLETED?

A. On July 27, 1999, Core provided Verizon with forecasts of DS-3 circuits and routing codes that were necessary to direct traffic to Core's premises. This information was submitted to Core on Verizon's own work sheets. At the same time, Core requested interconnection between Core's Baltimore Wire Center ("BWC") located at 200 E. Lexington Street. and Verizon's Wire Center at 323 N. Charles Street. Core also requested that interconnection be completed 45 days later on September 10, 1999. According to Verizon's response to Staff's Data Request No. V-1, interconnection was not completed until December 23, 1999, which is 149 days or approximately five months after the initial request for interconnection.

Q. DID VERIZON PROVIDE INFORMATION TO CORE THAT EXPLAINED THE REASONS FOR THE DELAY IN INTERCONNECTION?

A. No. According to Core's Amended Complaint, when Core requested interconnection and provided Verizon with technical information on July 27, 1999, the letter contained a paragraph which read as follows:

> "Please confirm in writing if the requested interconnection activation date is acceptable, or, if it is not acceptable, please propose an alternative date, together with an explanation why such alternative date is appropriate."

Core states in its Amended Complaint that it did not receive a response to this provision.

Q. HOW WERE THE DETAILS ON INTERCONNECTION WORKED OUT BETWEEN THE PARTIES?

A. Although Verizon did not provide an alternative interconnection date as discussed above, the parties held a meeting on August 11, 1999, to further the discuss the details of the interconnection arrangement. The parties discussed the use of entrance facilities to provide interconnection and the availability of spare capacity on existing network facilities (*see*

Complaint, page 4). There were subsequent meetings and exchanges of correspondence to finalize the details of interconnection.

FACILITIES AVAILABLE AT CORE'S WIRE CENTER

Q. WAS THERE SPARE CAPACITY AND EQUIPMENT AVAILABLE THAT MIGHT MAKE INTERCONNECTION POSSIBLE?

A. Yes. With respect to available equipment, there was a fiber optic multiplexer available at Core's BWC. At the request of Verizon, this multiplexer was installed before Core requested interconnection to serve another Verizon customer in the same building. That customer eventually canceled its order and the multiplexer went unused. When Core requested interconnection, it planned to use that multiplexer to add its own traffic to the fiber strand.

Verizon then informed Core that Verizon policy did not permit more than one customer of record to be assigned to a single multiplexer even if spare capacity was available. Verizon also advised Core that even if the existing multiplexer were to be used by Core, Verizon's policy requires CLECs to purchase their own separate dedicated fiber strand and not share an existing strand even if capacity is available. This separate strand would also require Verizon to install another multiplexer at its Charles Street office.

With respect to available capacity, a fiber optic facility already existed that served both Core's BWC and Verizon's Charles Street Office. The BWC location housed other carriers in addition to Core as well as Verizon retail customers. The building is served with several fiber strands. A single fiber strand can carry the traffic of a number of different Verizon customers. Each customer needs a multiplexer to add their traffic to the fiber strand and drop it off somewhere along the fiber path. Verizon's wire center would also need a multiplexer to add or drop off traffic to the correct path along the strand.

Verizon advised Core that the standard provisioning interval for an entrance facility was four to six months and that Core should not expect interconnection to be completed before this time frame.[2] The additional time would be needed to provision a separate fiber strand and multiplexer that would be available for the exclusive use of Core.

Q. ARE RETAIL CUSTOMERS PERMITTED TO SHARE A FIBER PATH?

A. Yes. Retail customers may share a fiber path. The restriction imposed by Verizon that prohibits the sharing of a fiber ring applies only to competitive carriers.

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[2] *See* Letter from Marcus Brackman of Verizon to Michael B. Hazzard, Counsel for Core, dated September 7, 1999.

Q. DID CORE PROVIDE ANY INFORMATION THAT RELATES TO INTERCONNECTION PRACTICES BY INCUMBENT CARRIERS IN OTHER STATES?

A. Yes. In response to Staff's Data Request No. C-2 to Core, Core provided an affidavit from Mr. Todd Lesser (Attachment B), President of North County Communications, a CLEC based in San Diego, California. Mr. Lesser states that SBC and Qwest routinely provide entrance facility interconnection in approximately 30 days. Mr. Lesser adds that the operating companies of these holding companies provide entrance facilities like any other form of special access and over facilities that are shared by CLECs, long distance carriers, and retail customers.

PROVISION OF ENTRANCE FACILITIES

Q. WHAT IS AN ENTRANCE FACILITY?

An entrance facility is the communication path that connects the network of a competitive local exchange carrier ("CLEC") with Verizon's network. An entrance facility is used in lieu of physical or virtual collocation. Verizon includes several provisions that relate to entrance facilities in its Access Services Tariff No. 217. For example, Section 6.8.1(D)(1), page 113a, reads as follows:

(D) Switched Transport Rate Elements

(1) Entrance Facility

The Entrance Facility monthly rate provides for the communication path between a customer's premises and the SWC of that premises and is assessed based on the capacity of the facilities provided (e.g., Voice Grade, DS1, or DS3). When Lineside Switched Access service is ordered, the Voice Grade Entrance Facility rate is assessed for each Lineside service requested unless the customer requests an Entrance Facility of higher capacity. The Entrance Facility rate is assessed when the customer premises and the SWC are in the same building. The Entrance Facility rate is in addition to the rates assessed for Direct Trunked Transport and Tandem Switched Transport.

Q. IS THE DEFINITION OF AN ENTRANCE FACILITY IN VERIZON'S MARYLAND TARIFF CONSISTENT WITH THE DEFINITION IN VERIZON'S INTERSTATE TARIFF FILED WITH THE FCC?

A. Yes. In responding to Core's original complaint filed on October 8, 1999, Verizon relied on its FCC tariff to support its contention that an entrance

facility was "for the sole use of the customer."[3] The identical phrase is used in Section 6.1.2 of Maryland Tariff No. 217. This provision reads:

> 6.1.2 Rate Categories (Cont'd)
>
> (A) Switched Transport (Cont'd)
>
> (1) Entrance Facility Rate Category
>
> An Entrance Facility provides the communication path between a customer's premises and the Telephone Company SWC of that premises for the sole use of the customer. The Entrance Facility category is comprised of a Voice Grade rate, a DS1rate or a DS3 rate. An Entrance Facility is required whether the customer's premises and the SWC are located in the same or different buildings. The types of facilities available for Entrance Facilities are described in 6.2.4 following. (Underlining added.)

Section 6.2.4 referenced in the above provision with respect to a DS3 reads:

> 6.2.4 Switched Transport Facilities (Cont'd)
>
> (c) DS3 Facility
>
> DS3 facilities are available for Entrance Facilities and Direct Trunked Transport facilities. A DS3 facility is capable of transmitting electrical signals at a nominal 44.736 Mbps, with the capability to channelize up to 672 voice-frequency

[3] Tariff F.C.C. No. 1, 4th Revised Page 139.1.

transmission paths. Compatible Interface Groups are described in 6.1.2 preceding.

Because access between local exchange carriers is used to complete local exchange calls, the appropriate governing tariff is the Maryland tariff.

Q. DO YOU AGREE WITH VERIZON THAT THE MARYLAND TARIFF PROVISION THAT LIMITS AN ENTRANCE FACILITY TO THE "SOLE USE OF THE CUSTOMER" EXPLICITY PROHIBITS CORE FROM OBTAINING AN ENTRANCE FACILITY THAT IS SHARED WITH NON-CLEC CUSTOMERS?

A. No. The "sole use" phrase does not prohibit CLECs from using shared entrance facilities. My interpretation of the phrase is that it restricts a customer from purchasing only a portion of a DS3 which would allow the customer to avoid paying the full rate. Alternatively, the customer could purchase a full DS3 but then resell any unused capacity that might exist. These options are possible because a DS3 can be multiplexed and shared just as a fiber strand can be shared. Thus, the "sole use" provision has a meaning that is quite different from that which Verizon suggests.

This phrase also serves to protect CLECs because it assures that Verizon will make a full DS3 available for the CLEC's use even if all of the capacity is not needed immediately. Thus, a competitive carrier will have

additional capacity available as it attracts more customers and its business grows. Because Core requested several DS3s, none of these concerns applied to Core's situation.

Q. DOES VERIZON'S TARIFF INCLUDE A PROVISION THAT IN ANY WAY PROHIBITS A CLEC FROM PURCHASING A DS3 FROM A SHARED FIBER STRAND FACILITY?

A. No. I could find no provision that requires a DS3 to be purchased from a dedicated fiber strand regardless of whether the DS3 would be used as an entrance facility or as a retail service.

Q. WHAT WAS THE REASON GIVEN BY VERIZON FOR NOT PROVIDING INTERCONNECTION USING THE EXISTING FIBER OPTIC RING?

A. Verizon stated that the existing fiber optic path was used to provide retail services and was not available to provide access to carriers who wished to interconnect with Verizon. Rather, Verizon needed to construct a new dedicated facility in order to complete the interconnection arrangements with Core. The time that was needed to construct the facilities delayed Core's ability to provide service to its own customers. I have attached three diagrams which depict the interconnection arrangements: (1) desired

by Verizon, (2) desired by Core, and (3) the configuration eventually implemented.

Diagram 1 shows the arrangement preferred by Verizon including separate multiplexers for each customer at the BWC and the fiber strand dedicated to Core's use. Diagram 2 depicts Core's preferred arrangement. This scenario makes uses of a shared multiplexer between Core and other retail customers located at the BWC and the sharing of a single fiber strand with retail customers. Diagram 3 reflects the configuration that was eventually implemented. It is virtually identical to Diagram 1 except that the second multiplexer at the BWC was removed because the retail customer canceled its order with Verizon. The only other change is the reduction in the number of DS3 circuits that Core eventually purchased.

Q. IS IT STANDARD POLICY FOR VERIZON TO PROVIDE ENTRANCE FACILITIES TO COMPETITIVE LOCAL CARRIERS ONLY VIA DEDICATED FACILITIES AS OPPOSED TO SHARED FACILITIES?

A. Yes. Verizon states that all interconnecting CLECs must order dedicated entrance facilities and may not use a shared facility. Therefore, Verizon claims that it did not discriminate in its treatment of Core but, rather, followed its established requirement that entrance facilities can only be

provided on a dedicated basis. If all carriers are treated alike, there can be no claim of discrimination.

However, the extent to which Verizon is discriminating among carriers is not at issue. The issue is whether or not Verizon is discriminating among carriers with respect to Verizon's own retail customers. This is addressed in more detail later in my testimony.

EQUAL IN QUALITY STANDARD FOR INTERCONNECTION

Q. DOES THE TELECOMMUNICATIONS ACT OF 1996 ("1996 ACT") ESTABLISH INTERCONNECTION REQUIREMENTS THAT APPLY TO THE ISSUES SET FORTH IN CORE'S COMPLAINT?

A. Yes. Section 251(c)(2) creates a duty for incumbent LECs (local exchange carriers) "to provide... any requesting telecommunications carrier, interconnection with a LEC's network...at any technically feasible point within the carrier's network...that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection."

Q. IS INTERCONNECTION AT CORE'S BALTIMORE WIRE CENTER TECHNICALLY FEASIBLE?

A. Yes. Verizon does not dispute that interconnection is technically feasible. Moreover, Verizon activated interconnection at this location on December

23, 1999. However, the issue as to whether Verizon provided interconnection that is equal in quality to that provided to itself remains open. Verizon also believes that although it is required to provide interconnection at any technically feasible point, it is not required to provision interconnection in any prescribed way. Core alleges that Verizon advised Core that "what is possible is often different from what is permissible." [4]

In response, Core alleges that Verizon's own interstate tariff requires that DS-1 circuits be provided within 9 business days and that a DS-3 be provisioned within 20 business days. Core alleges that a retail dedicated DS-3 is no different than a DS-3 entrance facility and that Verizon's construction delay constitutes unlawful discrimination.

Moreover, the Federal Communications Commission ("FCC") has addressed the relationship of interconnection that an incumbent carrier (Verizon) provides to itself. In the First Report and Order, paragraph 225, the FCC concluded:

> "We also note that section 251(c)(2) requires interconnection that is "at least" equal in quality to that enjoyed by the incumbent LEC itself."

[4] *See* Letter from Michael B. Hazzard, Counsel for Core, to Marcus Brackman of Verizon, dated September 1, 1999.

Q. IS THE INTERCONNECTION THAT CORE RECEIVES EQUAL IN QUALITY TO THAT WHICH VERIZON PROVIDES TO ITSELF IN SERVING RETAIL CUSTOMERS?

A. The answer depends on what is meant by "quality." If quality refers to a standard such that the technical characteristics and features are the same, then Core and Verizon's retail customers have equal interconnection. If, however, quality includes equal treatment with respect to timing of installation and/or other provisioning issues, then it becomes less clear that Verizon has met the standard.

Q. HAS THE FCC PROVIDED ANY GUIDANCE WITH RESPECT TO THIS ISSUE?

A. Yes. Section 51.305(a)(3)[5] of the FCC's rules states in part that an incumbent LEC (local exchange carrier) shall provide interconnection:

> That is at a level of quality that is equal to that which the incumbent LEC provides itself, a subsidiary, an affiliate, or any other party....This obligation is not limited to a consideration of service quality as perceived by end users, and includes, but is not limited to, service quality <u>as perceived by the requesting telecommunications carrier</u>. (Underlining added.)

I believe that a requesting carrier would perceive the equal interconnection standard to include installation intervals that are equal to those Verizon's provides to itself in serving retail customers. Anything less would mean that Verizon would have the ability to create an advantage for itself by serving its retail customers expeditiously while delaying the market entry of its potential competitors.

Q. WHAT ADVANTAGE WOULD AN INCUMBENT CARRIER ENJOY IF IT WAS ABLE TO DELAY THE MARKET ENTRY OF A COMPETITOR?

A. The immediate benefit to an incumbent carrier is that delayed entry creates additional costs for competitors. The fact that the competitor cannot operate and earn revenue while it continues to incur expenses only adds to the disadvantages that a new CLEC faces. The longer the delay, the greater the cost the incumbent carrier can impose and the less likely that the competitor will succeed in the long run. In addition, if the competitor has a business plan that targets certain customer groups, then the incumbent can market its services more aggressively during the period of delay. The Telecommunications Act of 1996 and its

[5] *See* 47 CFR 51.305(a)(3)(1996).

subsequent implementation by the FCC reflect the effort that was undertaken to minimize the opportunity for incumbent carriers to engage in these kinds of activities.

Q. ARE THERE ANY OTHER RULES THAT ADDRESS THE TIMING OF I INTERCONNECTION IN A MORE SPECIFIC WAY?

A. Yes. Part 51, Section 51.305(a)(5) states in part that an incumbent LEC shall provide interconnection:

> On terms and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of any agreement, the requirements of sections 251 and 252 of the Act, and the Commission's rules including, but not limited to, offering such terms and conditions equally to all requesting telecommunications carriers, and offering such terms and conditions that are no less favorable than the terms and conditions the incumbent LEC provides such interconnection to itself. This includes, but is not limited to, the time within which the incumbent LEC provides such interconnection. (Underlining added.)

Thus, it is clear that the FCC requires provisioning intervals for interconnection that apply to CLECs to be the same as those which apply to the incumbent carrier, or Verizon. If the provisioning times are different, then Verizon is acting in a discriminatory fashion.

CONCLUSION – COUNT I

Q. DO YOU AGREE WITH CORE'S ALLEGATION THAT VERIZON FAILED TO PROVIDE INTERCONNECTION WITHIN 45 DAYS AS REQUIRED BY SECTION 4.4.4 OF THE INTERCONNECTION AGREEMENT BETWEEN THE PARTIES?

No. First, there is doubt as to whether or not section 4.4.4 of the Interconnection Agreement ("Agreement") even applies to Core's initial request for interconnection. Section 4.4.4 states that the "Interconnection Date in a new LATA shall not be earlier than forty-five (45 Days) after receipt by BA of all complete and accurate trunk orders and routing information." (Underlining added.) The provisions that address initial interconnection are sections 3.0 and 4.0 of the Interconnection Agreement Appendix which provide that Interconnection Activation Dates are established by the parties and included as Schedule 3.0. However, Schedule 3.0 states that the completion dates for interconnection were "TBD" or "to be determined." Therefore, the Interconnection Agreement does not establish a deadline when interconnection must be completed.

However, even if section 4.4.4 does apply, the plain language of this provision does not establish that interconnection must be provided within 45 days. Section 4.4.4. reads in part "the Interconnection Activation Date in a new LATA shall not be earlier than forty-five (45) days after receipt by Verizon of all complete and accurate trunk orders and routing information." (Underlining added.) Section 4.4.4 states that interconnection would occur after 45 days, not within 45 days. Therefore, I do not believe that Verizon was required to provide interconnection to Core with 45 days.

CONCLUSION – COUNTS II, III, IV, AND V

Q. WHAT ARE YOUR CONCLUSIONS CONCERNING THE REMAINING FOUR COUNTS SPECIFIED IN CORE'S COMPLAINT?

A. With respect to Counts II, III, IV, and V, I conclude that Verizon:

1. Failed to provide interconnection to Core on the same terms and conditions that it provides to itself;
2. Delayed Core's entry into the marketplace by requiring Core to use a dedicated entrance facility; and
3. Failed to provide interconnection in a reasonable time frame.

Q. WHAT IS THE BASIS FOR YOUR CONCLUSIONS?

A. As discussed in my testimony, the FCC requires incumbent carriers to provide interconnection on terms that are "perceived" to be equal by the requesting carrier and, in addition, within the same time frames as the incumbent carrier provides to itself. Verizon's FCC tariff provides for the installation of a retail DS3 with 20 business days (Attachment C). It took Verizon 149 calendar days to provide DS3 interconnection to Core at the BWC.

Rather than permit Core to use an available multiplexer on site at the BWC, Verizon required that the multiplexer be inventoried and not shared with other potential customers at 200 E. Lexington Street. Verizon also did not permit Core to share a fiber ring with retail customers even though Verizon permits its own retail customers to share fiber capacity. These interconnection procedures served to delay the entry of Core into the market place and create an artificial competitive advantage for Verizon.

RECOMMENDATION

Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION?

A. Based on my conclusions, I recommend that the Commission direct Verizon to add a new regulation to all appropriate Maryland tariffs that states that Verizon will provide interconnection to requesting carriers that is equal in quality, including the time required for installation, to that which Verizon provides to its own retail customers. This requirement will remove any ambiguity in the provisioning of interconnection and remove the opportunity for Verizon to treat its customers differently from its competitors without violating its own tariffs.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

BEFORE THE

PUBLIC SERVICE COMMISSION
OF MARYLAND

IN THE MATTER OF THE COMPLAINT	*	
OF CORE COMMUNICATIONS, INC. VS.	*	**CASE NO. 8881**
VERERIZON MARYLAND, INC.	*	

REBUTTAL TESTIMONY

OF

STEVE MOLNAR

ON BEHALF OF THE STAFF
OF THE
PUBLIC SERVICE COMMISSION OF MARYLAND

OCTOBER 19, 2001

INTRODUCTION

Q. PLEASE STATE YOUR NAME AND OCCUPATION.

A. My name is Steve Molnar. I am a regulatory economist in the Telecommunications Division of the Public Service Commission of Maryland.

Q. ARE YOU THE SAME STEVE MOLNAR WHO FILED DIRECT TESTIMONY IN THIS PROCEEDING ON BEHALF OF THE STAFF?

A. Yes, I am.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN THIS PROCEEDING?

A. The purpose of my rebuttal testimony is to respond to certain issues raised in the Reply Panel Testimony of David J. Collins, John R. Gilbert, and David Visser ("Panel Testimony").

Q. DO YOU AGREE WITH THE PANEL TESTIMONY THAT THE TELECOMMUNICATIONS ACT OF 1996 ("THE ACT") IMPOSES A DUTY ON ALL TELECOMMUNICATIONS CARRIERS TO

INTERCONNECT DIRECTLY OR INDIRECTLY WITH THE FACILITIES OF OTHER CARRIERS?

A. Yes. However, the reference made by the Panel Testimony is incomplete. The general duty to interconnect, as stated in the question, applies to all local exchange carriers, which includes competitive local exchange carriers ("CLECs") and incumbent local exchange carriers ("ILECs"). However, the Act also establishes two sets of obligations under the general duty to interconnect: the first applies to all local exchange carriers, Sec. 251(b); and the second applies only to ILECs, Sec. 251(c). The latter obligations that apply to ILECs under Sec. 252(c) are more specific and rigorous that the general duty to interconnect as discussed in the Panel Testimony. Moreover, Sec. 251(c)(2)(C) requires ILECs to provide interconnection "to any requesting telecommunications carrier...that is at least equal in quality to that provided...to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection..." (Emphasis added.) Thus, the Act does much more than simply require interconnection; it imposes a standard on ILECs such as Verizon that requires interconnection to be equal to that which it provides to itself or any other party.

As I discussed in my Direct Testimony,[4] the Federal Communications Commission ("FCC") has found that the "equal in quality" standard must reflect the service quality as perceived by the requesting carrier. According to the FCC's own rules on interconnection, which cannot be ignored, this includes the installation intervals for provisioning interconnection service.

Q. DO YOU AGREE WITH THE PANEL TESTIMONY AT PAGES 6-7 THAT VERIZON DOES NOT INTERCONNECT WITH ITS RETAIL CUSTOMERS?

A. No. Verizon is attempting to cloud the application of the Act and the FCC's rules by claiming that Verizon only interconnects with carriers and not retail customers. According to Verizon, there should be no comparison between the provision of interconnection to carriers and the provision of retail services to retail customers. Contrary to Verizon's contention, if it were not appropriate to make such a comparison, the plain language of the Act and the FCC's rules would have no meaning.

As a practical matter, CLECs have similar characteristics as Verizon's large retail customers. Both must connect with Verizon's network for the

0[4] *See* Molnar Direct, page 17.

exchange of traffic and both are billed for the services they receive. The principal difference is that a Verizon retail customer is also the end user, whereas with a CLEC, the traffic must be delivered to the ultimate end user, the CLECs' customers.

Q. DO YOU AGREE WITH THE PANEL TESTIMONY ON PAGE 14 THAT THE COMPARISON YOU MADE TO THE INSTALLATION OF DS-3 SERVICE DOES NOT APPLY?

A. No. Core obtained DS-3 service from Verizon for the purpose of interconnecting with Verizon. As a requesting carrier, Core was entitled to, and Verizon was obligated to provide, interconnection that was equal to that provided to any other party. Verizon failed to meet this obligation.

Q. THE PANEL TESTIMONY EXPLAINS ON PAGES 17-18 THAT THE PROVISIONING OF INTERCONNECTION TO CORE WAS COMPARABLE AND, IN FACT, QUICKER THAN THAT PROVIDED TO OTHER CLECs. DO YOU BELIEVE THAT THIS INFORMATION ABSOLVES VERIZON OF CORE'S CLAIM THAT ITS ENTRY INTO THE MARKETPLACE WAS UNNECESSARILY DELAYED?

A. No. The length of time for provisioning interconnection to Core relative to provisioning interconnection to other carriers is irrelevant because that is not the standard. If it were, ILECs could take as long as they wanted to provide interconnection and, as long as they took the same amount of time for all carriers, there could be no issue of improper behavior. For example, if an ILEC took three years to provide interconnection to requesting carriers, and yet took only thirty days to provide service to its retail customers, under Verizon's argument there could be no claim of anticompetitive behavior because all carriers were treated the same. This interpretation is clearly wrong and not consistent with the pro-competitive goals of the Act.

Q. WHY IS IT IMPORTANT THAT VERIZON BE REQUIRED TO PROVISION INTERCONNECTION TO REQUESTING CARRIERS THAT IS EQUAL TO THAT WHICH IT PROVIDES TO ITSELF?

A. Any incumbent carrier, including Verizon, has an incentive to delay the market entry of its potential competitors. The sooner competitors enter the market, the sooner Verizon loses revenue that it would otherwise receive itself. Conversely, if the entry of competitors can be delayed, then revenue that Verizon would lose could be maintained at least until the competitor actually begins operating. Moreover, every day that a carrier

cannot operate and provide service to customers is a day in which costs are incurred that are not offset with revenue. These conditions add to the financial burden of new CLECs and make it more difficult for CLECs to become viable going concerns over time. Any ILEC would have an incentive to create or promote these conditions if regulatory safeguards did not intervene.

It is also in the interest of incumbent carriers to delay market entry of competitors in order to either maintain existing customers or attract new ones. For example, If a business is considering obtaining service from a carrier other than the business' current provider, the incumbent has a substantial advantage in attracting the customer if can provide service in 30 days whereas a competitor cannot deliver service for several months. Incumbent service providers in any industry benefit from the delay of competitors into the marketplace.

Q. ON PAGES 21-22 THE PANEL TESTIMONY POINTS TO AN FCC ORDER TO JUSTIFY ITS POSITION THAT THE EQUAL IN QUALITY STANDARD FOR INTERCONNECTION DOES NOT APPLY TO VERIZON'S RETAIL SERVICE. DO YOU AGREE?

A. No. Similar to the example provided earlier in my testimony, Verizon has provided an incomplete discussion of what the FCC order concludes. In fact, the FCC order cited by Verizon states exactly what my testimony recommends; that the appropriate standard for interconnection is the comparison with retail service.[5]

Q. DOES THE FCC ORDER CITED BY VERIZON STATE, AS VERIZON CLAIMS, THAT THE FCC'S RULES FOR THE DESIGN AND OPERATION OF INTERCONNECTION FACILITIES REQUIRE THE SAME TECHNICAL CRITERIA AND SERVICE STANDARDS THAT ARE USED FOR INTEROFFICE TRUNKS (PAGES 21-22)?

A. Yes. However, the quotation supplied by Verizon applies to the "design and operation" of interconnection service quality and not to the provisioning of interconnection. In the following paragraph in the order, the FCC clearly states that its rules require an ILEC to "...provide interconnection to a competitor in a manner no less efficient than the way in which the incumbent LEC provides the comparable function to its own retail operations."[6] (Emphasis added.) The New York 271 Order goes on to state in the same paragraph that the FCC's rules "interpret this

[5] In the Matter of the Application by Bell Atlantic New York for Authorization Under 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York, CC Docket No. 99-295, Released December 22, 1999, at ¶65 ("New York 271 Order").

obligation to include, among other things, the incumbent LEC's installation time for interconnection service and its provisioning of two-way trunking arrangements."[7] (Emphasis added.) A similar finding was made by the FCC with respect to the 271 application filed by SBC Communications, Inc. ("SWBT") for Kansas and Oklahoma. The FCC reiterated that "we are persuaded that SWBT provides competing carriers with interconnection trunking in both Kansas and Oklahoma that is equal-in-quality to the interconnection SWBT provides to its own retail operations...."[8]

Thus, there is no ambiguity in what the FCC's rules mean. My recommendation, that the Commission direct Verizon to add a new regulation to its Maryland tariffs that states that Verizon will provide interconnection to requesting carriers that is equal in quality, including the time required for installation, to that which Verizon provides to its own retail customers, is not a new requirement. It is simply a re-statement in the Maryland state jurisdiction of what the FCC already requires in the interstate jurisdiction.

2[6] *Ibid.*
3[7] *Ibid.*
[8] In the Matter of Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, CC Docket No. 00-217, Released January 22, 2001, at ¶224.

Q. THE PANEL TESTIMONY ON PAGES 22-24 STATES THAT THE MARYLAND CARRIER-TO-CARRIER GUIDELINES PERFORMANCE STATNDARDS AND REPORTS REQUIRE THAT CLEC INTERCONNECTION TRUNKING BE COMPARED TO TRUNKING PROVIDED TO INTEREXCHANGE CARRIERS ("IXCs"). DO YOU AGREE?

A. No. The Panel Testimony refers to PR-1-09 and PR-2-09 as the basis for its contention that interconnection provisioning should be evaluated based on the provisioning of trunks to IXCs. These metrics are titled respectively "Average Interval Offered – Total" and "Average Interval Completed – Total." I have attached the beginning pages of each metric's respective section in the performance standards document (Attachment A). On page two (PR-1-09 and page 3 (PR-2-09) I have highlighted the performance standard that applies to each metric. In both examples, the performance standard is specifically defined as "Parity with VZ retail." (Emphasis added.)

Q. IN YOUR OPINION, IS THE PERFORMANCE STANDARD YOU RECOMMEND AN OBJECTIVE THAT VERIZON CAN REASONABLY BE EXPECTED TO ACHIEVE?

A. Yes. In my Direct Testimony, I discussed the provisioning interval for retail DS-3 service that Verizon includes in its federal tariff, which is 20 business days.[9] Core obtained a DS-3 entrance facility to interconnect with Verizon. I also discussed in my Direct Testimony other information provided by Core which explained that certain incumbent carriers in other regions provide entrance facilities within 30 days to requesting carriers.[10] In addition to this information, the FCC order granting Verizon 271 approval in Massachusetts discusses provisioning times for interconnection. The FCC states that "Verizon's performance data show that the average time to install interconnection trunks for competitive LECs for the months of September through December 2000 was 27 days, and 49 days for interexchange carriers."[11] An even better result was realized by SWBT in Texas. In granting SWBT's 271 application, the FCC found that "In February, March, and April, SWBT met the 20 business day benchmark with an average installation interval (for installation of interconnection trunks) of 16.5, 17.4, and 17.3 business days respectively for competitive LECs."[12] (Clarification added.) Therefore, it is clear that

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0[9] *See* Molnar Direct, page 16.
1[10] *Ibid.*, page 8.
2[11] Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) And Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services in Massachusetts, CC Docket No. 01-9, Released April 16, 2001, at ¶187.
[12] Application by SBC Communications Inc., Southwestern Bell Telephone Company, And Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the

Verizon and other ILECs already have the ability to provide interconnection to CLECs within comparable time frames as that offered for retail service. Yet, when the installation times for interconnection in other states are compared to the 149-day interval it took for Verizon to provide interconnection to Core, it becomes apparent that a new standard is needed for Maryland.

Q. WHAT STANDARD DO YOU RECOMMEND THAT THE COMMISSION ADOPT TO PROMOTE REASONABLE INSTALLATION TIMES FOR CLEC INTERCONNECTION?

A. I recommend that the Commission direct Verizon to add a new regulation to all appropriate Maryland tariffs that states that Verizon will provide interconnection to requesting carriers that is equal in quality, including the time required for installation, to that which Verizon provides to its own retail customers.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

Telecommunications Act of 1996To Provide In-Region, InterLATA Services In Texas, CC Docket No. 00-65, Released June 30, 2000, at ¶71, footnote 149.

TAB B

Section 3

Provisioning Performance

(PR)

	Function	Number of Sub-metrics
PR-1	Average Interval Offered	10
PR-2	Average Interval Completed	11
PR-3	Completed within Specified Number of Days (1-5 Lines) **[In Dispute]**	11
PR-4	Missed Appointments	8
PR-5	Facility Missed Orders **[In Dispute]**	3
PR-6	Installation Quality	3
PR-7	Jeopardy Reports	1
PR-8	Open Orders in a Hold Status	2
PR-9	Hot Cut Performance **[In Dispute]**	3

Function:

PR-1 Average Interval Offered

Definition:

This metric measures the average interval offered for completed and cancelled orders. For **POTS and Specials**, the Average Interval Offered is also known as the Average Appointed Interval. The average number of business days between order application date and committed due date (appointment date). The application date is the date that a valid service request is received. **Note:** Orders received after 5:00PM are counted as received the next business day.

Complex Orders include: 2-Wire Digital Services (ISDN) and 2-Wire xDSL Loops and line sharing.

Specials Orders include: All Designed circuits, 4-Wire circuits (including Primary rate ISDN and 4-Wire xDSL services), all DS0, DS1, and DS3 circuits. EEL and IOF are reported separately.

Trunks: The amount of time in business days between receipt of a clean ASR (received date restarted for each Supplemental order) and due date committed to from FOC. Measures service orders completed between the measured dates.

Notes:
(1) The offered intervals for cancelled orders are counted in the month during which the cancellation occurs.
(2) Sub-metrics reported according to line size groupings will be based on the total lines in the orders.

Exclusions:

- VZ Test Orders.

- Orders where customers request a due date (DD) that is beyond the standard available appointment interval. (X Appointment Code[1]).
- Verizon Administrative orders.
- Orders with invalid intervals *(e.g. Negative intervals or intervals over 200 business days – indicative of typographical error).*
- Additional segments (pages or sections on individual orders) on orders (parts of a whole order are included in the whole).
- Suspend for non-payment and associated restore orders.
- Orders that have neither completed nor been cancelled.
- Orders requiring manual loop qualification.

  Note: 2-wire xDSL orders that require manual loop qualification have an **R** populated in the ***Required*** field of the LR (indicating that a manual loop qualification is required).
- Disconnects are excluded from all sub-metrics ***except*** sub-metric PR-1-12 which measures disconnects.

Performance Standard:

Metrics PR-1-01 through 09 and PR-1-12 (except PR-1-01 and 02, UNE 2 Wire xDSL Loops): Parity with VZ Retail.

Metrics PR-1-01 and 02, UNE 2 Wire xDSL Loops: No standard.

The published interval for one (1) to five (5) 2 Wire xDSL Loops is six (6) business days (pre-qualified).
Refer to the Verizon web-site documented in Appendix L for the specific intervals offered for products and services.

Report Dimensions:

Company:	Geography:
• VZ Retail • VADI [2] • CLEC Aggregate [3] • CLEC Specific	• POTS and Complex: Maryland • Specials & Trunks: Maryland

[1] Orders that are or should be X appointment coded. Effective 2/00, VZ will automate appointment coding when orders are received via LSOG4. CLECs that are not using LSOG4 are responsible to perform the X coding.
[2] Reported for DSL metrics only
[3] Excludes Verizon Advanced Data Incorporated

Function:

PR-2 Average Interval Completed

Definition:

This metric measures the average interval completed. The Average Interval completed for POTS and Specials is the average number of business days between order application date and actual work completion date. The application date is the date that a valid service request is received. **Note:** Orders received after 5:00PM are counted as received the next business day.
Coordinated Cut-over (Hot Cut) Loop orders are considered complete according to definition documented in the PR-9 Hot Cut metric section of this document.

DSL Loops are considered complete according to definition documented in the PR-4 metric section of this document.

Average Interval Completed Trunks: The Average Interval Completed for Trunks is the amount of time in business days between receipt of a clean ASR (received date restarted for each supplemental order) and the date the order is completed and the customer is notified. Measures service orders **completed** between the measured dates.

Note:
(1) Sub-metrics reported according to line size groupings are based on the total lines in the orders.

Exclusions:

- VZ Test Orders
- Orders where customers request a due date that is beyond the standard available appointment interval. (X Appointment Code).
- Verizon Administrative orders
- Orders with invalid intervals *(e.g. Negative Intervals or intervals over 200 business days – indicative of typographical error).*
- Additional Segments on orders (parts of a whole order are included in the whole).
- Orders that are not complete. (Orders are included in the month they are completed).
- Suspend for non-payment and associated restore orders.
- Orders completed late due to any end-user or CLEC caused delay.
- Orders requiring manual loop qualification
- **Note:** 2-wire xDSL orders that require manual loop qualification have an **R** populated in the ***Required*** field of the LR (indicating that a manual loop qualification is required).For 2 Wire Digital Services, 2 Wire xDSL Loops and 2 Wire xDSL Line Sharing, orders missed due to facility reasons.
- Trunks orders where the customer desired due dates are > 18 days.
- Disconnects are excluded from all sub-metrics ***except*** sub-metric PR-2-18, which measures disconnects.

Performance Standard:

Metrics PR-2-01 through 09 and PR-2-18 (except PR-2-01 and 02, UNE 2 Wire xDSL Loops): Parity with VZ Retail.

Metrics PR-2-01 and 02, UNE 2 Wire xDSL Loops: No standard.

The published interval for one (1) to five (5) 2 Wire xDSL Loops is six (6) business days

(pre-qualified).
Refer to the Verizon web-site documented in Appendix L for intervals on specific products and services.

Report Dimensions	
Company: • VZ Retail • CLEC Aggregate • CLEC Specific	Geography: • POTS and Complex: : Maryland • Specials & Trunks: Maryland

EXHIBIT C

00497

VOLUME III
PUBLIC SERVICE COMMISSION OF MARYLAND

IN THE MATTER OF THE REVIEW BY THE COMMISSION IN VERIZON'S COMPLIANCE WITH THE PETITIONS OF 271-C OF THE FEDERAL TELECOMMUNICATIONS ACT	Case No. 8921

Public Service Commission
William Donald Schaefer Tower
6 St. Paul Street
16th Floor Hearing Room
Baltimore, Maryland 21202
Tuesday, October 29, 2002 - 9:30 a.m.

BEFORE: CATHERINE I. RILEY, Chairman
J. JOSEPH CURRAN, III, Commissioner
GAIL C. McDONALD, Commissioner
RONALD A. GUNS, Commissioner
HAROLD D. WILLIAMS, Commissioner

Reported by: E. Duane Smith, RPR and
Diane K. D'Argenio, RPR-RMR

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APPEARANCES:

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APPEARANCES: (Continued)

On behalf of AT&T Communications of Maryland, Inc.:

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and

Do you see that, Mr. Albert?
MR. ALBERT: Yes.
Q. Mr. Albert, does Verizon have a policy of preferring not to commingle local interconnection arrangements and local interconnection facilities and special access facilities on the same multiplexer?
MR. ALBERT: No, and let me explain so we get the terminology right.
One, when we're talking about different services and when we're using words like retail and wholesale, to describe multiplexers, those don't fit with how we engineer and design and build Verizon's network in Maryland. The right terminology is to talk
00684
about loop connections and interoffice facility connections or when we're talking about multiplexers it would be a loop fiber optic multiplexer or an interoffice facility fiber optic multiplexer.
Those are the two distinctions that we use in how we design our network and how we design our equipment. The loop would be the connection that goes from a Verizon central office to the end user customer premise. The interoffice facility is the connection that goes either between a Verizon central office and another Verizon central office or an interoffice facility is a connection that goes from a Verizon central office to a CLEC or an IXC central office.
So this distinction of there being loop facilities and loop multiplexers and then in the other bucket we have interoffice facilities which are interoffice facility multiplexers, interoffice facility fiber optic systems, that's the distinction between how the network is built and how we actually engineer it. And answering
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questions relative to retail multiplexers or wholesale multiplexers or special access multiplexers, that doesn't fit with how we actually build the network. I guess the good news is the way I described how we built the network not only in Maryland but in other states, that also doesn't fit the FCC definitions of what a loop is and what an interoffice facility is.
Now, I think in the case with Core, and if we're talking about this does Verizon discriminate or not, what we're talking about is for interconnection trunks which will go from a CLEC switch to a Verizon switch. Part of the question deals with are those provisioned over loop type of connections or over interoffice facility type of connections.
I think the question relative to the policy and to me, when I'm answering this, to me a policy is something that we always, always do. That's what a policy would be. If the question is do we always, always, always put interconnection trunks over a connection that's designed and built as an interoffice facility or

00686
will we sometimes put an interconnection trunk over a connection that's designed as a loop facility, we have no policy on that.
Now, I can tell you, though, what we have done in Maryland. And as for interexchange carriers, the connections from an interexchange carrier's central office to a Verizon central office, those are always built as interoffice facilities. By definition and by design that's what we build.
The slight difference we'll run into with CLECs and in the connections that we'll build from a Verizon central office to a CLEC central office, we will look at those individually to make the determination of if it's an efficient engineering, you know, decision, to build those connections over loop equipment or over interoffice facility equipment.
And in making that determination, a very, very high percentage of the time, 95 percent or more, we will actually build the interconnection trunks over a fiber optic system that's built as an interoffice facility. And in

00687
fact, if you look at the transport that we have built in Maryland, and if you look at how we have done that in accordance with our interconnection agreements, in the State of Maryland, the connection for trunks to CLECs to date, that high percentage of the time in Maryland has been 100 percent of the time. So all of the connections between Verizon Maryland and CLECs have been built as interoffice facilities.
Now, in other Verizon states, such as Pennsylvania or New Jersey or West Virginia or Massachusetts, that other 5 percent of the time on rare occasions there are circumstances where it's an efficient and a practical engineering decision under the terms of the interconnection agreement to build a transport using loop facilities. And there are in fact some that we have done that way.
COMMISSIONER CURRAN: Who pays this?
MR. ALBERT: Usually and in the case of Core we're talking about Verizon equipment, Verizon dollars, and all traffic going from Verizon to the CLEC.

00688
COMMISSIONER CURRAN: The interconnection trunks are paid for by Verizon?
MR. ALBERT: In the case of Core, that's correct. Under their interconnection agreement and under their arrangements that we've built in Maryland, the trunks carry traffic only from Verizon customers to Core customers.
COMMISSIONER CURRAN: So in terms of the costs, though, it's transparent to them whether it's an interconnection facility or a loop facility?
MR. ALBERT: Well, they have no cost.
COMMISSIONER CURRAN: From a cost point of view.

CHAIRMAN RILEY: There is no policy. There are, however, criteria which he pointed to, but they're not in writing. And my question had to do with could they be put in writing.

But let me say this about other states. This whole case seems to me the underpinnings are all about other states. And without fail in almost everything proposed, somebody points to something going on in another state. So we should not narrow our parameters on the one hand because we could narrow them all across here and not look at anything going on in other states. I don't think we want to do that. Mr. Hazzard?

MR. HAZZARD: Just a couple more. I'm actually getting close to the end here.

CHAIRMAN RILEY: But we're not in 8881.

MR. HAZZARD: That's correct.

CHAIRMAN RILEY: Please proceed. If we're in 8881 we're going to wind this up real

00700

fast.

MR. HAZZARD: Yes.

BY MR. HAZZARD:

Q. Mr. Albert, one of the criteria you noted in making this engineering notation was the CLEC forecast. Is that correct?

MR. ALBERT: That's an important criteria. Correct.

Q. And I inferred from your statement on the forecast that if the forecasted amount was very large, then Verizon would say we prefer not to use the loop facility, we'll just build you a whole separate one, we'll do it as IOF, not as a loop. Is that correct?

MR. ALBERT: No. Because it doesn't get back to a preference, it gets back to with each CLEC we will interconnect according to the terms of the interconnection agreement. And with Core in particular, let me find it. There's a section in the interconnection agreement which is really the crux of our position, in the Core interconnection agreement with Verizon in Maryland in section 4.2.5, it says that Verizon

00701

has the sole right and discretion to determine the method of interconnection at Core's interconnection point.

We have followed the terms of our interconnection agreement, our position, obviously, so is before the Commission in interconnecting with Core.

CHAIRMAN RILEY: And other folks have other provisions in their interconnection agreements.

MR. ALBERT: Yes, because you get quite a bit of difference from one interconnection agreement to the next. But in Core's interconnection agreement it says it's Verizon's sole right and discretion to determine the method of interconnection at Core's interconnection point.

MR. HAZZARD: Madam Chairman, I'm trying to get an understanding of what the unwritten policies or engineering criteria are, not the specific interconnection agreement because I'm talking about solely checklist item 2, not about a specific interconnection agreement

00702

which would lead inextricably to Case 8881. So I was more interested in the engineering practice or policy that Verizon engages in when it makes this determination, and Mr. Albert, his testimony that is the forecast is an important piece. And I'm trying to understand how that forecast is utilized.

MR. ALBERT: The forecast is an important piece because it determines the overall size of the facility that would be needed, they do engineer to. There's not an engineer in the world that would engineer without a forecast. That's a basic component of sizing equipment and putting in capacity, is to have a forecast. So the importance is from the perspective of sizing, building the overall facility, the forecast is also important to look at the ability to at a specific site even use a loop facility. Because there may be a loop facility there, but if it's an insufficient capacity to support the initial requirements, then you would have a case where it's not technically feasible to build interconnection trunks with using a loop

00703

facility.

And the reason we're so careful in our engineering when we look at this is because loop facilities are used by multiple users, they're used by other carriers and also used by end users. And if we botch our engineering in this decision, then we would negatively impact the service that's provided to other carriers and to other end users. So the forecast is critical in making the engineering determination of if you can even interconnect without botching service to others.

MR. HAZZARD: I know it seems as if I'm going on long, I'm asking fairly concise questions, understand how the forecast is utilized and Mr. Albert's giving relatively expansive answers which is fine, but it takes a long time do that.

Q. My question, Mr. Albert, is what's the approximate, at what point do you say the forecast fits in such that we're going to do it on the loop side or the forecast is too large, we're going to build a dedicated facility?

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what's the criteria there?

MR. ALBERT: There's no one single answer. I mean there's --

Q. That's fine. That's fine.

MR. ALBERT: There are a number of engineering factors that you meld together to make your decision for that case.

Q. I'd like to try to keep this going.

was initially scheduled to go on Monday and it was my understanding from counsel for Core that Messrs. Dawson and Mingo were only available on
00715
Tuesday. So we were supposed to go through this yesterday and take the Core witnesses yesterday. That's why they weren't listed on this checklist.
CHAIRMAN RILEY: So some might say you planned this going over to today.
MR. HILL: I was hoping nobody would say that, Chairman.
CHAIRMAN RILEY: All right, Mr. Hazzard.
These two gentlemen need to be sworn. Whereupon,
DOUGLAS A. DAWSON AND BRETT MINGO
a panel of witnesses, were called for examination by counsel on behalf of Core Communications, and, having been first duly sworn, were examined and testified as follows:
DIRECT EXAMINATION
BY MR. HAZZARD:
Q. Mr. Dawson, could you please state your name and business address for the record, please.
MR. DAWSON: Douglas A. Dawson, CCG
00716
Consulting, 6811 Kenilworth Avenue, Suite 300, Riverdale, Maryland, 20737.
Q. Mr. Dawson, did you prepare or have prepared this testimony and submit it into the record of this proceeding on July 15, 2002?
MR. DAWSON: Yes.
Q. Do you have any corrections to your testimony?
MR. DAWSON: I have one clarification. On pages 24 and 25 apparently yesterday there was some confusion on the issue CPN and ANI. On those two pages I used the term CPN several times. I'd like to point out in every case I used that I also could substitute, ANI.
CHAIRMAN RILEY: Are they interchangeable?
MR. HAZZARD: They're roughly interchangeable. Generally interchangeable.
MR. DAWSON: Any time I said CPN I would accept the word ANI.
Q. Mr. Dawson, do you have anything else to add at this point?
MR. DAWSON: No.
00717
Q. Mr. Mingo, would you please state your name and business address?
MR. MINGO: Brett Mingo, my address is Core Communications, Inc. 209 West Street, Suite 302, Annapolis, Maryland.
Q. Is this the same Brett Mingo that submitted testimony in this proceeding on July 15, 2002?
MR. MINGO: Yes, I am.
Q. Do you have any corrections to your testimony?

MR. MINGO: No, I do not.
Q. Do you have anything else you'd like to add at this time?
MR. MINGO: No, I do not.
MR. HAZZARD: Madam Chairman, I'd like to move the testimony of Douglas A. Dawson on behalf of Core Communications, Inc., as Core Exhibit 2. And the testimony of Brett L. Mingo on behalf of Core Communications, Inc. as Core Exhibit 3. And the witnesses are available for cross-examination.
(Core Exhibit Nos. 2 and 3 were marked for identification.)
MR. SMITH: No objection. We'll get to that later. Strike that.
CHAIRMAN RILEY: We can do it now. So we'll move it in without objection and you don't object so it's been, both of them, moved into evidence. Okay, Mr. Smith?
MR. SMITH: Absolutely.
(Core Exhibit Nos. 2 and 3 were received in evidence.)
CHAIRMAN RILEY: Please proceed.
MR. SMITH: We have no cross-examination of these witnesses.
CHAIRMAN RILEY: Okay. Anyone else?
MS. WILKERSON: No questions.
CHAIRMAN RILEY: Mr. Keffer?
MR. KEFFER: I'd love to ask questions but Mr. Hill would have a heart attack.
MR. HILL: I'd just get a little exercise, vocal exercise, Chairman, that's all.
CHAIRMAN RILEY: You've been very contained, Mr. Hill. Anyone else? Staff? Ms. Czarski?
MS. CZARSKI: No questions.
CHAIRMAN RILEY: Commissioners?
EXAMINATION
BY CHAIRMAN RILEY:
Q. I do have to ask something of Mr. Dawson on page 15. And if we're getting into 8881, please tell me.
But I've been here now over three years and I have never heard this term applied to the telecommunications world. So if you could tell me why you're applying it here I would appreciate it. You are referring to new facilities for local interconnection as separate but equal.
MR. DAWSON: I kind of liked that phrase.
Q. Well, I didn't. It has meaning to me and to others perhaps of our age that I thought it was sort of an interesting use of the term. It certainly got my attention. So if you could please share with us what exactly you meant by it.
MR. DAWSON: What I meant by that and

I think could go back to Mr. Albert's testimony a little bit earlier. I think the point I'm trying to make here is Verizon has made a, he talked about a little while ago a pretty big distinction between interexchange facilities and loop facilities, and what it really comes down to all practical terms for most of the things that CLECs want to use those loops facilities for, there is no practical difference.

There are certainly distinctions you can make on quality differences. We're talking a difference of three lines and four lines and a few extra minutes a year of average down time. The loop facilities Verizon builds are very good facilities. Otherwise you'd have a whole flood of customer complaints.

You know, if CLECs like Core ask for loop facilities very well aware they're loop facilities, we're still denied the loop facilities because they're declared not to be the same quality. They went into that with their

00721

eyes open, but they were certainly good enough quality for what Core wanted to do.

Q. So you would apply this term to all that Mr. Albert was talking about when he was making distinctions between interoffice facilities?

MR. DAWSON: Yes.

Q. And loop facilities?

MR. DAWSON: Well, particularly loop facilities that have fiber optics on them and are local ranges, I mean good loop facilities, not copper loops, yes.

Q. So you see no distinction other than --

MR. DAWSON: No practical distinction. There are some slight differences and engineers could sit and talk all day about the differences but there's no practical difference.

Q. So when Mr. Albert said that there were six criteria that had to do with engineering efficiency and other things, you dispute that?

MR. DAWSON: I would say those things

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were open for discussion. In real life what I've seen is those discussions don't occur. The fact is if the engineers from Verizon had a discussion with the engineers of Core or other CLECs, I represent about 150 other CLECs, we would love to have those discussions, and I believe when engineers talk to engineers that things are resolved. What happened to Core in this case was not engineers talking to engineers. So the fact is I think those six distinctions --

Q. Let's not discuss this case, let's discuss all the CLECs that you represent. Have any of the engineers who work for any of the CLECs you represent asked to meet with the engineers of Verizon to discuss these matters?

MR. DAWSON: This particular, this matter of meeting of retail facilities, yes.

Some of them have definitely asked to meet.
Q. And those meetings have not occurred?
MR. DAWSON: Not to the level where we're talking about those six criteria, no.
Q. So you would find such a meeting helpful?

00723

MR. DAWSON: Absolutely. Absolutely.
Q. You would find any guidelines that are used to arrive at making the determinations useful to know?
MR. DAWSON: Yeah. I think it's essential. In fact, we have these meetings nationwide with other RBOCs, those meetings do occur. It is a routine thing elsewhere.
Q. Are you also going to testify on dark fiber?
MR. DAWSON: Yes.
Q. Later when the dark fiber panel comes up?
MR. HAZZARD: If possible, if Mr. Dawson could have those questions sooner rather than later, he's traveling this week which is why we tried to get him on today. I know we're all pressed for time.
Q. On page 27, you say on lines 597-598, that Verizon procedures for ordering dark fiber are almost automatically doomed to failure. Does that mean not be provisioned in the way that CLECs might want them to be provisioned? Is that

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what you mean? What do you mean?
MR. DAWSON: What I mean by that is the current rules don't really let a CLEC understand what dark fiber is available. I certainly equate that to a game of Battleship, we have to guess is there fiber around A to B, make my request, get it accepted or rejected. If that doesn't work, come back to B, come back to C, come back to D. So it's very, very difficult for a CLEC to understand the Verizon network. Again, there's other ways that it could be done.
Q. So you would argue, in fact you do argue that Verizon's procedures are doomed to failure for the CLECs, not for Verizon.
MR. DAWSON: Oh, they certainly work very well for Verizon, yes.
Q. So you're pointing this out as what you believe to be discriminatory under the provisions of 251, interconnection?
MR. DAWSON: Yes. Again, I think a CLEC doesn't have the same access to the same records that a Verizon engineer would have when he wanted to use the dark fiber. So to that

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extent I believe it is very discriminatory.
Q. So you would argue under 251(c)(2)(c) that it's not equal in quality to what it allows for itself or what would you --
MR. DAWSON: That's exactly what I'm trying to get at. Verizon uses access to the records, uses dark fiber themselves, that's what they do when they want to build, they go in and

use dark fiber. The CLEC doesn't have the ability to use it in anywhere near the fashion Verizon does.

Q. On page 21 you say in lines 650 to 651 there are no defined rules to determine what dark fiber is and if it exists. So is your argument here that you would like to see rules?

MR. DAWSON: Yes. I certainly would. We've had a case on this topic and that was my testimony there, we'd like to see rules.

CHAIRMAN RILEY: Thank you. Any other questions for Mr. Dawson?

(No response.)

EXAMINATION

BY COMMISSIONER CURRAN:

00726

Q. I'm sorry, what relief are you asking for relative to dark fiber through this proceeding? You say that that's doomed to failure because of the access to information. But what are you asking this Commission to do to remediate or to remedy that?

MR. DAWSON: I think the remedy is to require more sharing of information so that CLECs can more easily get dark fiber. I mean, there's certain steps and a bunch of rules, again, engineering meetings would be a good step. There's things that could be done to make it work a whole lot easier.

Q. To make those conditions of 271 approval?

MR. DAWSON: Yes, I would like to see that.

Q. Just educate me on one thing. It might be in your testimony here and I apologize if I missed it. But for the CLECs, what advantage is it to you all to interconnect through a loop facility as opposed to a dedicated facility?

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MR. DAWSON: Number one advantage is speed, the speed to market.

Q. Speed to market?

MR. DAWSON: Speed to market. Getting into the business right away. When a loop facility is sitting there with spare capacity.

Q. It's already in service?

MR. DAWSON: It's already in service. One would think you could get that in service quickly. That's the number one reason.

Q. A dedicated facility would take longer to provision?

MR. DAWSON: Normally a dedicated facility is a long time to process.

Q. Are there other reasons?

MR. DAWSON: No, that's the number one reason, yeah.

Q. But there's no cost to you?

MR. DAWSON: No.

Q. Provisioning through a loop facility as opposed to a dedicated facility?

MR. DAWSON: I think he would think there is.

00728
MR. MINGO: The costs are maintaining the physical plant, the facility, the rent, the power, all those things in the interim. All those are drains on the CLEC.
Q. There's a cost to you to maintain the dedicated facilities?
MR. MINGO: There's a cost to maintain the dedicated facilities where the facilities would be housed. So for example, you can't actually build a dedicated facility unless you have a room available. If the room stands idle for six months while you're waiting needlessly, that is a cost to the CLEC.
Q. Would that be a collocation?
MR. MINGO: Well, in an entrance facility situation it's our space, so it would be a fixed space where we have rent or we have a switch perhaps, in various degrees of construction.
Q. And would you not incur those costs if you were permitted to use the loop facilities that are in service?
MR. MINGO: We'd still incur those
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costs but we'd be able to sell our services during the interim period so there's a big difference between waiting six months to get in the market and getting to market in 40 days. And that's the issue. If the front end costs, if the cost is 30,000 a month, for example, for a facility, if you wait six months that's $180,000 of front end costs that you will never recover.
Q. Where you're not getting any revenues for that period?
MR. MINGO: Exactly.
COMMISSIONER CURRAN: Thank you.
CHAIRMAN RILEY: Anything further?
(No response.)
CHAIRMAN RILEY: Gentlemen, thank you. Thank you, Mr. Hazzard. AT&T witnesses?
(Witnesses excused.)
CHAIRMAN RILEY: They have already been sworn.
Whereupon,
ROBERT J. KIRCHBERGER AND E. CHRISTOPHER NURSE
a panel of witnesses, were called for examination
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by counsel on behalf of AT&T, and, having been previously duly sworn, were examined and testified further as follows:
CHAIRMAN RILEY: Please proceed.
MR. MCRAE: Thank you, Your Honor.
DIRECT EXAMINATION
BY MR. MCRAE:
Q. We are presenting, re-presenting Mr. Nurse and Mr. Kirchberger, they've previously been sworn. This is regarding their declaration dated July 15th, 2002. And it was marked and entered as AT&T Exhibit No. 2. These witnesses are available for cross-examination.
MR. SMITH: Thank you. We just have a

But again for these purposes we're just in Maryland, so that's fine.
In the reply declaration at paragraph 136 --
MS. SHOCKET: I have just excerpts of the reply declaration. If you could direct me to

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what it says.
MR. HILL: I've got it. And I'm not sure exactly who's responsible for this paragraph.
Q. When you have paragraph 136, let me know.
MR. ALBERT: Got it.
Q. It's paragraph 136, notes that Verizon entered into agreements with Cavalier for the, quote, parallel provisioning, close quote, of collocation arrangements in unbundled interoffice dark fiber in Maryland as well as a couple of other jurisdictions. In Maryland, do you know when Verizon entered that agreement with Cavalier?
MS. SHOCKET: I'm not exactly sure about the date, but I know we have provisioned approximately 170 orders with Cavalier in the second and third quarter of this year using the parallel provisioning process.
Q. So it would be, I guess, sometime prior to the second quarter of this year?
MR. ALBERT: I think the first orders

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for that trial showed up in May. So we actually got the first whack of orders from Cavalier, some in Maryland, some in D.C., some in Virginia, in May of this year.
Q. And that amendment was entered into between Verizon and Cavalier sometime prior to May?
MR. ALBERT: We may have even started before the amendment was final and officially signed. There was a need to get going on it and we got going.
Q. Right. And has that amendment or that trial agreement been filed with the Commission?
MR. ALBERT: I don't know. I think you're right that officially it was called a trial agreement. I am not sure of the particulars of that document, you know, if it was an addendum to the interconnection agreement or if it was its own stand-alone thing or not. So --
Q. Was that trial agreement filed with the Commission?
MR. ALBERT: I don't know.

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Q. Could we check and determine whether that agreement has been filed with the Maryland Public Service Commission? And this may be, may be beyond the scope of this panel, but could a CLEC adopt the trial agreement that Cavalier has with Verizon Maryland for dark fiber?
MR. ALBERT: I guess I would say there's really no need to. I mean basically

EXHIBIT D

Date: Tue, 5 Sep 2000 14:21:03 -0400
From: Joe DiMarino <joseph.dimarino@verizon.com>
To: bret@coretel.net
Cc: KATHRYN C. BIXLER <kathryn.c.bixler@verizon.com>,
mhazzard@kelleydrye.com,
chris@coretel.net
Subject: Re: Pittsburgh/New York Entrance

Bret,

Attached below is a list of tandems for LATA 132. I will ask Kate for a similar one for Pittsburgh. You make some points for the networks CORE intends on deploying. We do intend on deploying an OC 48 but will need accurate forecasts so that the proper amount of "cards" can be slotted when the time comes for additional capacity.

As you know the purpose of a trunk forecast is not just for entrance facilities but to provide the information to our IOF and trunk management teams for future growth in addition to being part of the basic requirements for interconnection. CORE's forecast of (6) DS3s of traffic in NYC and Pittsburgh thru the end of year 2001 without knowing the exact locations needs to be clarified before we can move forward.

In response to parallel trunking while entrance facility builds are taking place and existing muxes already in place, is CORE planning on using a third party provider or do you have cages already in place that we can bring transport ? As you know "common muxes" in a building are not utilized for interconnection. If there is no third party provider or cages, we will have to wait until these entrances are complete before we can provide service.

(See attached file: northtndms.xls)

Thanks

Joe

EXHIBIT E

Bret Mingo <bret@coretel.net> on 11/09/2001 02:12:44 PM

To: Joe DiMarino@VZNotes
cc: Howard Levine@VZNotes
Subject: Re: Core entrance Facility

Greetings -

Okay, I've completed new forecasts for Baltimore, Easton, and Harrisburg.

Harrisburg is a new location, so here are the other answers:

301 Chestnut Street,
Suite 100
Harrisburg, PA 17101

I need the trunk forecast template - but in essence we're looking for 1 DS3 from each tandem to start.

Special access needs are minimal, you have fiber constructed, and we do not need it changed. Let's get to the site survey.

Howard - I've got a customer who is in a hurry, and we'd like to request using the current common mux for the intial trunks until the new entrance facility can be constructed - during the discovery phase of our present actions, we have discovered VZ has done this in the past (and SBC and Qwest uses existing facilities). For that reason, I'd really like for VZ to grant us this request, so as to avoid pressing that issue in Pennsylvania. I know you'll need to talk internally, but I believe for this situation, it's the best path. I do not want to risk this customer.

Thanks, and look forward to your response.

Cheers,
Bret

Date: Fri, 9 Nov 2001 16:10:41 -0500
From: howard.levine@verizon.com
To: Bret Mingo <bret@coretel.net>
Cc: david.visser@verizon.com, joseph.dimarino@verizon.com
Subject: Re: Core entrance Facility

Bret:

In accordance with your interconnection agreements, Verizon will interconnect with you via an entrance facility, collocation arrangement or a third party provider arrangement at another carrier's collocation site. We do not use a common mux for wholesale services.

You mention SBC, an account that Joe and I are familiar with. So far as our experience with SBC, we have never interconnected with them via a common mux. If you have specific examples of common mux interconnection in the Verizon footprint with SBC or Qwest, please let us know where this occurred and we will investigate further.

Howard

EXHIBIT F

> For your review and comment.
>
> Howard
> ---------- Forwarded by Howard Levine on 05/23/2002 03:01 PM
> ----------
>
>
> Bret Mingo <bret@coretel.net> on 05/23/2002 03:00:45 PM
>
> To: Howard Levine@VZNotes
> cc: chris@coretel.net
> Subject: A couple questions
>
>
>
> Greetings -
>
> I have some questions:
>
> 1) Is the Harrisburg Entrance facility done yet, and if so, where do we
> stand on the trunks from VZ to Core?
>
> Entrance was completed on 3/29/02. Customer was notfied then and again on
> 5/9/02 (below).
> To the best of my knowledge, we never received a trunk forecast for this
> market (see below)
>
> 2) We are installing new switches, for additional services (completion
> date 6/10), and will need some minimal trunks for these switches. See
the
> attached CLLI code list. If not already, we will be submitting ASRs for
> trunks from Core to VZ, as well as IXC access, but we'll want 14 T1's per
> VZ tandem to these switches to complete interconnection for them. In one
> case, we have located the switch in a different facility than our
> previous, so I'd like to use the common mux for that CLLI (the new
> Salisbury, MD CLLI - you have a mux in Delmarva Online's space, with
> enough capacity) I know you've never have done it in the past, but I'd
> like to keep asking, rather than have you build a new mux, and all the
> unnecessary time delays.
>
> The Salisbury CLLI is SLBRMDFSDS0: address 808 Priscilla Street,
> Salisbury, MD 21804
>
> The remainder new CLLIs are: BLTMMD91DS1, DMSCMDAGDS1,
MTARMDSDDS0,
> HRBGPACTDS1, PITFPA01DS0, PHLAPAFGDSV, NYCMNYPZDS0.

>
> If CORE is talking a new CLEC switch, that means certification (for each
> LATA). Also will need a new forecast along with NPA/NXXs. In addition
> common mux cannot/will not be utilized.
>
>
>
> Thanks.
>
> Cheers,
> Bret

EXHIBIT G

BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

In the Matter of the Review by	)	
the Commission Ito Verizon	)	**Case No. 8921**
Maryland Inc.'s Compliance with the	)	
Conditions of 47 U.S.C. § 271 (c)	)	

REPLY CHECKLIST DECLARATION

ON BEHALF OF VERIZON MARYLAND INC.

Donald E. Albert

Rosemarie Clayton

Maureen Davis

Susan Fox

Nancy M. Gilligan

Carleen Gray

William H. Green, III

Karen Maguire

Josephine Maher

Claire Beth Nogay

Richard L. Rousey

Alice B. Shocket

R. Michael Toothman

John White

Alan T. Young

REPLY CHECKLIST DECLARATION

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BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

In the Matter of the Review by the Commission Ito Verizon Maryland Inc.'s Compliance with the Conditions of 47 U.S.C. § 271 (c)	))))	**Case No. 8921**

REPLY CHECKLIST DECLARATION

ON BEHALF OF VERIZON MARYLAND INC.

I. THE DECLARANTS

1. My name is Donald E. Albert. My credentials are stated in my original declaration, filed on April 12, 2002.

2. My name is Rosemarie Clayton. My credentials are stated in my original declaration, filed on April 12, 2002.

3. My name is Maureen Davis. My credentials are stated in my original declaration, filed on April 12, 2002.

4. My name is Susan Fox. My credentials are stated in my original declaration, filed on April 12, 2002.

5. My name is Nancy M. Gilligan. My credentials are stated in my original declaration, filed on April 12, 2002.

6. My name is Carleen Gray. My credentials are stated in my original declaration, filed on April 12, 2002.

7. My name is William H. Green, III. My credentials are stated in my original declaration, filed on April 12, 2002.

8. My name is Karen Maguire. My credentials are stated in my original declaration, filed on April 12, 2002.

9. My name is Josephine Maher. My credentials are stated in my original declaration, filed on April 12, 2002.

10. My name is Claire Beth Nogay. My credentials are stated in my original declaration, filed on April 12, 2002.

11. My name is Richard L. Rousey. My credentials are stated in my original declaration, filed on April 12, 2002.

12. My name is Alice B. Shocket. My credentials are stated in my original declaration, filed on April 12, 2002.

13. My name is R. Michael Toothman. My business address is 13100 Columbia Pike, Silver Spring, Maryland. My title is Director – CLEC Communication. My responsibilities include oversight of Change Management. Prior to assuming my current position, I held a number of positions of increasing responsibility in the areas of system requirements/development, change management and testing. I have been involved in telecommunications for 28 years.

14. My name is John White. My credentials are stated in my original declaration, filed on April 12, 2002.

15. My name is Alan T. Young. My credentials are stated in my original declaration, filed on April 12, 2002.

II. PURPOSE OF DECLARATION

16. This Reply Checklist Declaration is filed on behalf of Verizon Maryland Inc. ("Verizon MD") in response to the Declarations filed by Allegiance Telecom of Maryland, Inc. ("Allegiance"), AT&T Communications of Maryland, Inc. ("AT&T"),

Cavalier Telephone, LLC ("Cavalier"), Core Communications, Inc. ("CoreTel"), Covad Communications Company ("Covad"), Metro Teleconnect Companies ("MetroTel"), Starpower Communications, LLC.("Starpower"), and WorldCom Inc., which challenge Verizon MD's compliance with specific Checklist Items. While Cavalier filed Maryland specific comments related to Checklist Items 2, 4 and 11, it relies primarily on the testimony that it filed in the recent Virginia 271 proceeding before the Virginia State Corporation Commission ("SCC") (the "Cavalier VA Testimony").

17. This Declaration demonstrates that, contrary to the CLECs' claims, Verizon MD provides nondiscriminatory access to interconnection in accordance with its obligations under Checklist Item 1 of Section 271 of the Telecommunications Act of 1996 ("Act"). The Declaration shows that Verizon MD's interconnection practices and procedures, including interconnection trunking and collocation, are in compliance with its tariffs and Checklist Item 1 of the Act, despite the assertions of AT&T, Cavalier, and CoreTel to the contrary. The Declaration responds to the comments made by Starpower concerning compliance with Checklist Item 2, nondiscriminatory access to network elements. The Declaration also responds to Cavalier's Virginia allegations under Checklist Item 3, and demonstrates that these claims are meritless. The Declaration also addresses a number of parties' claims concerning Verizon MD's satisfaction of Checklist Item 4 obligations, specifically, Allegiance, AT&T, Covad, and Cavalier's claims concerning the availability of DS-1 and DS-3 loops; and Covad's claims concerning DSL services. The Declaration also addresses the comments filed by AT&T, Cavalier, CoreTel and Covad regarding Verizon MD's compliance with its Dark Fiber obligations under Checklist Item 5. The Declaration also responds to Cavalier's expressed concerns

with Verizon VA's provisioning of 911/E911 services under Checklist Item 7. AT&T's comments regarding Verizon MD's compliance with its White Pages obligations, and Cavalier's claims regarding Verizon VA's provisioning of directory listings, are addressed under Checklist Item 8. In addition, Cavalier's claims concerning Checklist Item 11, Local Number Portability, are addressed briefly in this Declaration. Finally, the Declaration addresses the claims of MetroTel challenging Verizon MD's compliance with Checklist Item 14, Resale. In many cases, the CLECs' claims are exactly the same unsupported or legally erroneous claims they have made in state after state -- and that have been repeatedly rejected by the state commissions and the FCC.

18. As demonstrated in its Checklist Declaration, Verizon MD has satisfied all its Checklist obligations, and none of the other parties has demonstrated that the Commission should reach a finding of non-compliance on the Checklist. Significantly, no participants in this proceeding filed comments questioning Verizon MD's compliance with Checklist Items 6, 9, 10, 12 and 13. This silence further demonstrates Verizon MD's compliance with these checklist items. Because these checklist items are undisputed, Verizon MD is not submitting reply comments on them.

III. CHECKLIST ITEM 1: INTERCONNECTION

19. Verizon MD demonstrated in its Checklist Declaration, ¶¶ 25-91, that it has satisfied its obligations under Checklist Item 1. There, Verizon MD demonstrated that it provides for interconnection, including interconnection trunking and collocation, consistent with the requirements of the Act. Verizon MD showed that it meets its general interconnection obligations in Maryland in the same manner endorsed by the Federal Communications Commission ("FCC") in approving the Pennsylvania 271 Application. Verizon MD has also shown that it provides local interconnection for the transmission

and routing of telephone exchange traffic, telephone exchange access traffic, or both. Upon request, Verizon MD makes each type of local interconnection specified by the FCC available at specified technically feasible points, under Interconnection Agreements ("ICAs"). Like in Pennsylvania, Verizon MD will also accept requests from CLECs for interconnection *at any other* technically feasible points using the Bona Fide Request ("BFR") process that is provided for in ICAs.

20. Three CLECs – Cavalier, AT&T and CoreTel – have challenged Verizon's contention that it satisfies both its interconnection trunking and collocation requirements under this Checklist Item. As will be demonstrated below, these claims have no merit.

A. Interconnection Trunking

21. Cavalier and AT&T filed comments regarding one aspect of Verizon MD's compliance with its obligations under Checklist Item 1.[1] Both allege that Verizon MD has failed to demonstrate that it has satisfied its obligations under Checklist Item 1 because of the position Verizon MD has taken on GRIPs ("Geographically Relevant Interconnection Points"). GRIPs provisions are included in some ICAs in Maryland, including Cavalier's agreement, where the provisions were voluntarily negotiated by Conectiv and Bell Atlantic, the predecessors to Cavalier and Verizon on the Maryland agreement. Many agreements, however, have no such provision, including AT&T's current agreement.[2]

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[1] *See* Phase A Panel Testimony of Martin W. Clift, Jr., Larry Sims, Matt Ashenden, and Mark S. Zitz on Behalf of Intervenor Cavalier Telephone Mid-Atlantic, LLC., and Declaration of E. Christopher Nurse and Robert J. Kirchberger on Behalf of AT&T ("AT&T Nurse, Kirchberger Dec.").

[2] *See* Attachment 213 for a list of those ICAs that do not include a GRIPs provision.

22. Cavalier did not raise this issue directly in its Maryland Declaration. Rather, Cavalier appended the declaration that it filed with the Virginia Commission in that state's 271 proceeding, where it raised the GRIPs issue in connection with its Virginia ICA with Verizon VA. The Virginia State Corporation Commission "VA SCC" concluded that Verizon's policy of seeking to include GRIPs provisions in an ICA did not constitute a violation of Verizon's obligations under Checklist Item 1.[3] The Delaware Commission reached the same result in its 271 proceeding. In both of those states, as well, either Cavalier or its predecessor on the contract voluntarily negotiated a GRIPs provision.

23. Although we are not attorneys, it is our understanding that it is clear that under applicable law neither the existence of a GRIPs provision in an existing ICA nor a request by Verizon MD in an interconnection negotiation that a GRIPs provision be included in an ICA, constitutes grounds for finding checklist noncompliance. Indeed, sound policy reasons support the inclusion of GRIPs provisions. The purpose of a GRIPs provision is to attempt to allocate fairly between the parties the extra costs of interconnection and transport facilities needed to exchange traffic between the two carriers – instead of automatically putting the costs on Verizon. GRIPs provisions attempt to make a clear distinction between the point of interconnection ("POI") and the

[3] Consultative Report Letter from Virginia State Corporation Commission to Federal Communications Commission, In the Matter of Verizon Virginia Inc. to Verify Compliance with the Conditions Set Forth in 47 U.S.C. Section 271(c), WC Docket No. 02-214, dated August 1, 2002, enclosing Report of Alexander F. Skirpan, Jr., Hearing Examiner, dated July 12, 2002 ("Virginia SCC Consultative Report"), p. 26. The Virginia Commission's letter to the FCC stated, "The [July 12, 2002, Hearing Examiner] Report, which is enclosed with this letter, concludes that Verizon Virginia currently complies with each of the fourteen Checklist Items listed in 47 U.S.C. § 271(c)(1)(A) obligation to enter into interconnection agreements with competitive local exchange services as it exists within the Commonwealth." A copy of the

Interconnection Points ("IPs"). A POI is where the ILEC and CLEC physically interconnect their respective networks. This is the place where the carriers' wires physically meet. An IP (the GRIPs location in Cavalier's case) is the place in the network at which one local exchange carrier hands over financial responsibility for traffic to another local exchange carrier. A POI and an IP may be at the same place, but do not have to be. Even though traffic is physically on one party's network, the second party may still bear financial responsibility for the traffic over that segment by purchasing transport from the first party. In such a case, the POI and the IP would be different. Under the Cavalier GRIPs provision, Verizon's MD is financially responsible for delivering its traffic to Cavalier's IP at the Cavalier collocation site – its GRIP. Verizon MD bears the financial burden of delivering such traffic to the GRIP, and Cavalier bears the financial burden of carrying the traffic from the GRIP back to its end-users.

24. Despite the fact that its VA interconnection agreement includes a voluntarily negotiated GRIPs provision, Cavalier claimed, erroneously, that Verizon VA was ignoring its obligation to pay Intercarrier Compensation charges for the further transport and termination of Verizon's traffic over Cavalier's facilities and that Verizon VA's refusal to compensate Cavalier for these services is contrary to its obligations under the Act. It asserted that "Verizon's intent . . . is to force the competitor to incur the costs to build and then doubly incur the costs to give Verizon a free ride over the point where the networks are physically interconnected."[4] In the Virginia proceeding, Verizon VA demonstrated that Cavalier is wrong, and what it is complaining about is the fact that

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Virginia Commission letter, with the enclosed Hearing Examiner Report, is annexed hereto as Attachment 214.

[4] Cavalier, Attachment at 9.

Verizon VA has declined to pay for transporting the traffic *after* the traffic passes the agreed-upon GRIP – where Cavalier's ICA explicitly puts financial responsibility for carrying the traffic on *Cavalier*, not *Verizon*. Moreover, in that proceeding Verizon VA established that Cavalier had filed a complaint with the Virginia SCC regarding its dispute with Verizon VA over the interpretation of the GRIPs provision in its ICA.[5] The FCC has said that agreement-specific disputes are more properly resolved in such complaint proceedings, not in a 271 case.[6]

25. Although AT&T's Maryland ICA does not include a GRIPs provision and Verizon MD did not raise any GRIPs issues in its Checklist Declaration, AT&T claims that Verizon's negotiation of GRIPs provisions in some ICAs demonstrates that Verizon MD does not comply with this Checklist Item. AT&T complains that GRIPs enable Verizon MD, rather than a CLEC, to select locations where traffic is delivered for termination, for both Verizon MD's traffic and for the CLEC's traffic. AT&T argues that Verizon MD's GRIPs provision transfers a substantial amount of its origination and termination costs to the CLEC.[7] After reviewing what it believes to be the relevant statutory and regulatory provisions, AT&T states that, "Verizon twists the language of the Act and the FCC's regulations in furthering its position [on GRIPs]."[8]

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[5] *See* Case No. PUC 202-00089, Petition to Enforce Interconnection Agreement, dated April 19, 2002.

[6] Memorandum Opinion and Order, *Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, 15 FCC Rcd 18354, ¶ 24 ("Texas Order").

[7] AT&T Network Architecture Dec. at 4.

[8] *Id.* at 5.

26. Cavalier's and AT&T's claims are meritless and provide no basis for the Commission to find that Verizon MD has not satisfied its obligations under Checklist Item 1. A number of factors militate in favor of dismissing these arguments.

27. First, in its *Verizon PA 271 Approval Order*, the FCC squarely addressed Verizon's position on GRIPs and found that it did not violate the FCC's rules and, therefore, did not warrant a finding of checklist non-compliance. Acknowledging that CLECs had raised issues about Verizon PA's GRIPs provisions, which are similar to Verizon MD's provisions, the FCC found that "Verizon's policies do not represent a violation of our existing rules."[9] The FCC noted further that "[t]he issue of allocation of financial responsibility for interconnection facilities is an open issue in our *Intercarrier Compensation NPRM.* We find, therefore, that Verizon complies with the clear requirement of our rules, *i.e.*, that incumbent LECs provide for a single *physical* point of interconnection per LATA."[10] Verizon MD, like Verizon PA, provides for a single physical POI per LATA.

28. Second, the Act provides for state commission resolution of disputes that arise out of the terms and conditions of ICAs. The Checklist review process is not an alternative avenue for resolving these types of issues. Indeed, the FCC has concluded that such an approach would be "irreconcilable" with the statutory scheme of section

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[9] *See In the Matter of Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization to Provide In-Region, InterLATA Services in Pennsylvania*, CC Docket No. 01-138, Memorandum Opinion and Order, released September 19, 2001 ("Pennsylvania Order"), ¶ 100. Although both AT&T and Cavalier refer to the term "Reciprocal Compensation" in discussing their complaints regarding GRIPs, the FCC has treated this issue as an issue under Checklist Item 1 "Interconnection" and not under Checklist Item 13 "Reciprocal Compensation." *Id.*

[10] *Id.* (footnotes omitted).

271.[11] As the FCC has stressed, "Congress designed section 271 to give the BOCs an important incentive to open their local markets to competition, and that incentive presupposes a realistic hope of attaining section 271 authorization. That hope would largely vanish if a BOC's opponents could effectively doom a section 271 application by freighting their comments with novel interpretative disputes and demand that authorization be denied unless each one of those disputes is resolved in the BOC's favor."[12]

29. In fact, in the Verizon Pennsylvania 271 proceeding, the FCC stated that:

> As we have stated in other section 271 orders, new interpretative disputes concerning the precise content of an incumbent LEC's obligations to its competitors, disputes that our rules have not yet addressed and that do not involve *per se* violations of the Act or our rules, are not appropriately dealt with in the context of a section 271 proceeding.[13]

30. In the Virginia proceeding, Cavalier acknowledged that its complaints regarding the proper interpretation that should be given to the GRIPs provision in its ICA were already before the SCC in a separate complaint proceeding.[14] Likewise, if Cavalier has any objection to the GRIPs provision in its current ICA with Verizon MD it should initiate a separate complaint proceeding with this Commission. In this case, however,

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[11] Memorandum Opinion and Order, *Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, 15 FCC Rcd 18354, ¶ 24 ("Texas Order").

[12] Texas Order ¶ 26.

[13] Pennsylvania Order ¶ 92.

[14] Cavalier at 9 (citing VA SCC Case No. PUC 202-00089, Petition to Enforce Interconnection Agreement, dated April 19, 2002).

Cavalier has supplied ***no Maryland specific evidence*** about the GRIPs provision in its Maryland ICA or stated that any problems exist with operations related to this particular provision. Cavalier should not be permitted to litigate issues in this docket, based upon Virginia specific evidence. Any Maryland-specific complaint concerning GRIPs should be litigated in another case before the Commission. As the FCC has stated, "section 271 does not compel us to preempt the orderly disposition of intercarrier disputes by the state commissions . . . ."[15]

31. AT&T also references its Virginia Interconnection Agreement Arbitration before the FCC, which, *inter alia*, addressed the GRIPs issues.[16] Subsequent to the filing of the AT&T Declarations in this case, the FCC issued its decision on the noncost items, including the GRIPs issue, in the Virginia consolidated arbitration.[17] The arbitration decision favored the CLECs' reciprocal compensation schemes over Verizon's GRIP and VGRIP proposals for inclusion in a new *arbitrated* agreement. Undoubtedly, AT&T and Cavalier will point to the FCC decision to support their arguments that GRIPs provisions violate the Checklist. This decision does *not* say, however, that parties cannot *voluntarily* enter into GRIPs agreements, as Cavalier has done here, and does not say that voluntary GRIPs agreements violate 271.

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[15] Memorandum Opinion and Order, *Application of Verizon New England Inc., Bell Atlantic Communications, Inc., (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) And Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services in Massachusetts,* FCC Docket No. 01-9, (Released April 16, 2001) ("Massachusetts Order").

[16] AT&T Nurse, Kirchberger Dec., at 45.

[17] *See Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration,* Memorandum Opinion and Order, CC Docket Nos. 00-218, 00-249 & 00-251, DA 02-731 (FCC rel. July 17, 2002) ("Virginia Arbitration Order").

32. The fact that the Cavalier's ICA contains a GRIPs provision and Verizon MD may seek to negotiate such a provision in future agreements does not constitute a *per se* violation of the Act, as AT&T appears to believe. The Act is clear that the parties to an interconnection agreement *may* voluntarily agree to interconnection terms "without regard to the standards set forth in ..." Section 251. 47 U.S.C. § 252(a)(1). Moreover, Verizon MD clearly is not insisting on its GRIPs proposal as a condition of interconnecting in Maryland. As noted above, there are numerous agreements without any version of GRIPs – including AT&T's current ICA – that are available for carriers to opt-in.

33. Indeed, the FCC has already decided that voluntarily negotiated GRIPs agreements do not violate 271 – a fact not lost on the Virginia SCC which stated: "Based on the *Verizon Pennsylvania Order* and the *Verizon New Jersey Order*, Verizon Virginia appears to be correct that the FCC has found GRIPs does not violate its rules related to interconnection and transport (Checklist Items 1 and 5). I find that GRIPs does not present a barrier to Verizon Virginia meeting Checklist Items 1 and 5."[18] The Delaware commission, where AT&T and Cavalier raised the same GRIPs arguments, reached the same result.[19]

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[18] Virginia SCC Consultative Report, p. 26.

[19] *See Application by Verizon New England Inc., Verizon Delaware Inc. et al., for Authorization to Provide In-Region InterLATA Services in New Hampshire and Delaware*, WC Dckt. No. 02-157, Consultative Comments of the Public Service Commission of Delaware, dated July 16, 2002, at 8-9. "[W]e do not believe that either of the general challenges raised by AT&T or Cavalier's particular dispute -- which presumably involves the interpretation of specific contractual terms -- compels as to make a finding of noncompliance with Checklist Item 1."

34. Accordingly, for all the reasons set forth above, Cavalier's and AT&T's assertions that Verizon MD has not satisfied its obligations under Checklist Item 1 should be rejected.

35. Core Communications ("CoreTel") raised two different issues regarding Verizon MD's Interconnection policies.[20] CoreTel claims, first, that Verizon MD does not implement initial interconnection trunking arrangements in a LATA quickly enough, or according to the terms of its interconnection agreement with CoreTel, and, second, that Verizon MD refuses to provide Calling Party Number ("CPN") over interconnection trunks.

36. CoreTel claims that Verizon MD does not allow CoreTel to interconnect in a technically feasible way. CoreTel claims that Verizon does not rapidly implement initial interconnection trunking arrangements in a LATA, by refusing to use existing facilities to provide interconnection and that this practice discriminates against carriers in favor of Verizon MD and its retail organization. CoreTel claims that it has been victim to this "policy" in 3 out of 4 interconnection points (Baltimore, where initial interconnection trunking was completed in December of 1999, Damascus, where initial interconnection trunking was completed in November 2000, and Mount Airy, where initial interconnection trunking was completed in July of 2000).

37. CoreTel also claims that Verizon MD should provide it with Calling Party Number ("CPN"), "which is an end user's telephone number that is passed between carriers terminating calls." CoreTel claims that Verizon MD refuses to transmit CPN information over multifrequency trunks and that CoreTel either needs to order IXC trunks

[20] Direct Testimony of Bret L. Mingo on Behalf of Core Communications, Inc., and Direct Testimony of Douglas A. Dawson on Behalf of Core Communications, Inc.

or establish SS7 in order to get CPN.[21] CoreTel further asserts that Verizon MD wants CoreTel to establish an SS7 based trunking network, thus buying "retail trunks." CoreTel claims that Verizon MD practices in regards to CPN are discriminatory.[22]

38. CoreTel's claims do not establish any basis to find that Verizon MD is not in compliance with Checklist Item 1. Most important, the dispute between CoreTel regarding these issues is a classic example of an intercarrier dispute over the terms in an ICA that is pending in a current proceeding. As CoreTel admits, it filed a complaint against Verizon's interconnection practices in October 1999 in Case No. 8881, which addresses the very issues CoreTel raises here. In addition, CoreTel has filed a similar complaint with the FCC that is fully briefed and awaiting decision.[23] As noted above, the FCC has stated that "section 271 does not compel us to preempt the orderly disposition of intercarrier disputes by the state commissions . . . ."[24] As is also noted above, the FCC has repeatedly stated that "new interpretative disputes concerning the precise content of an incumbent LEC's obligations to its competitors . . . are not appropriately dealt with in the context of a section 271 proceeding."[25] Thus, the mere existence of the interconnection dispute does not constitute a basis for finding that Verizon MD does not satisfy Checklist Item 1.

39. Moreover, there is no merit to CoreTel's complaints. First, the process and timeframe for implementing initial interconnection trunking arrangements in a LATA

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[21] Dawson at 22.

[22] Mingo at 7-8.

[23] *Core Communications, Inc.* v. *Verizon Maryland*, FCC File No. EB-01-MD-007.

[24] Massachusetts Order ¶ 203.

involves numerous steps, with responsibilities and work activities that must be accomplished by *both* the CLEC and Verizon MD. Some of these steps are: installation of the CLEC's switch, selecting and deploying transport equipment infrastructure, provisioning of DS-3 transport circuits, provisioning of DS-1 transport circuits, establishing trunk switch translations and trunk routing, provisioning trunks on the switches, and installation and activation of CLEC NXX code(s).

40. As noted in the Checklist Declaration, ¶¶ 47-49, Verizon MD provides excellent provisioning and maintenance performance to the CLECs on their interconnection trunks. The most recent Carrier-to-Carrier Reports show that Verizon MD is continuing to provide excellent service. For example, the June reports show that Verizon MD is providing good service in maintenance and provisioning. The Network Trouble Report Rate for interconnection trunks (MR-2-01) was nonexistent. Other performance measures for interconnection trunking during this same period, such as Mean-Time-To-Repair Total (MR 4-01), Missed Appointment Rate (PR-4-01), and the Percent Installation Trouble Reported Within 30 days (PR-6-01) all show that Verizon MD's performance is good.

41. Moreover, in CoreTel's FCC complaint proceeding, Verizon MD has demonstrated that CoreTel's complaint should be dismissed. In that case, CoreTel's main complaint was that the interconnection process should have been completed quicker and that Verizon MD told CoreTel that it would be completed quicker. Contrary to CoreTel's claims, the undisputed record in that proceeding shows that Verizon MD completed CoreTel's entrance facility ***nearly two months ahead of schedule***, took reasonable

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[25] Pennsylvania Order ¶ 92.

measures to manage its network through the facilities issues, kept CoreTel reasonably informed of the progress with its interconnection, and, in the end, completed CoreTel's interconnection ***in less time*** than it took to complete any other interconnection during that time.

42. Second, in Case No. 8881, Verizon MD also has demonstrated that CoreTel's claims are meritless. There, Verizon MD explained in detail that it did not discriminate against CoreTel. Verizon MD does not provide interconnection trunks to end-users. Therefore, Verizon MD cannot discriminate against carriers in the provision of interconnection trunk services in favor of its end user customers, since it does not provide interconnection trunking to end user customers in the first place. Verizon MD has also demonstrated in Case No. 8881 that it has not violated any interconnection obligations to CoreTel under its ICA. CoreTel is a uniquely situated CLEC in Maryland because it serves only one class of customer – Internet Service Providers ("ISPs") who receive calls but do not initiate them. CoreTel sends no traffic to Verizon MD's network and, it is Verizon MD that bears the entire costs and maintenance responsibilities for Verizon MD-provided transport facilities – including fiber and multiplexing equipment – to CoreTel's point of presence for the purpose of delivering its local interconnection traffic to CoreTel. Verizon MD has received no compensation from CoreTel because CoreTel has not ordered any switched interconnection services. As stated in the ICA (Section 4.2.5), for purposes of delivering its local interconnection trunking traffic to Core, Verizon MD has the sole right and discretion to specify the method for Interconnection at any of the Core interconnection points. Per the terms of the

agreement, Core does not have the right to specify which method Verizon MD must use to deliver interconnection traffic to Core.

43. Furthermore, CoreTel is simply wrong in arguing that Verizon MD should have used a shared end-user loop SONET ring multiplexer to provision interconnection trunks to CoreTel. Future service requirements for many end-user customers (including those of Verizon, resellers, and CLECs through unbundled loops) served by the loop multiplexer arrangement would have been at risk if Verizon MD had used a loop multiplexer for interconnection to deliver Internet traffic to CoreTel. For example, CoreTel's own forecast submitted to Verizon MD on July 27, 1999 justified Verizon MD's decision to build dedicated interoffice facilities ("IOF") to CoreTel's Baltimore Wire Center. CoreTel fails to mention anything about its own forecasted interconnection requirements. CoreTel's own trunk forecast indicated an initial need for 4 DS-3's required by end of year 1999, as well as a need for an *additional 3 DS-3's* (for a total of 7) just six months later, *i.e.*, by June 2000.

44. If Verizon MD had provisioned CoreTel's initial interconnection trunks on the existing loop multiplexer shared end-user ring, the loop multiplexer ring equipment would have exhausted its capacity during the 2nd quarter 2000, *i.e.*, within six months of CoreTel's initial trunk interconnection in December 1999 -- given CoreTel's substantial forecasted interconnection requirements and the existing end-user DS-3 requirements. This means that any additional DS-3 services/requirements requested by CoreTel or by any of the end users on the loop multiplexer ring, could not have been met by Verizon MD. Instead, Verizon MD's outside plant organization would have had to build an additional shared loop fiber ring with four separate nodes (one at each customer location,

including CoreTel, and Verizon MD's serving wire center). Clearly, Verizon MD's decision to build dedicated physical interoffice facilities ("IOF") to CoreTel in this case was not only a practical decision, but it addressed related important reliability issues that would otherwise negatively impact all related customer services.

45. In addition, there is no merit to CoreTel's allegation that Verizon MD took excessive time to effectuate interconnection for CoreTel, as Verizon MD explained above and in Case No. 8881. The construction of dedicated interoffice facilities is a major project that potentially requires a fiber design job and the scheduling and completion of construction. The projects require engineering design work, the hiring of vendors, and acceptance testing and turn-up. The evidence in Case No. 8881 demonstrates, moreover, that an implementation meeting was held with CoreTel on August 11, 1999, and, that the entrance facilities were in service by the end of November. This project completion interval compares favorably with the time it takes to complete similar jobs within Verizon's network.

46. Finally, CoreTel's statements relating to the signaling information used with local interconnection trunking, specifically CPN, are incorrect.[26] Verizon MD follows the same trunk signaling standards in all 14 Verizon East jurisdictions including New York, Massachusetts, Pennsylvania and New Jersey. Verizon's trunk signaling meets the industry standards in the Local Switching System Generic Requirements ("LSSGR"), which are maintained by Telcordia. In addition, Verizon MD implemented Multifrequency ("MF") signaling for local interconnection trunks with CoreTel, at CoreTel's request.

[26] Mingo at 7. Dawson at 24.

47. Contrary to CoreTel's claim, Verizon MD does not pass CPN to IXCs over MF trunks. CPN is part of the Signaling System Seven ("SS7") standards and is only used with SS7 trunks. The signaling protocol for Multifrequency Feature Group D trunks to interexchange carriers includes Automatic Number Identification (ANI). Technically, CPN and ANI are two different things. In the SS7 standards CPN is used to provide calling number services (such as Caller ID), where CPN is the telephone number of the **station** that originates the call. In the IXC Feature Group D signaling specifications for MF trunks, ANI is used for billing purposes by the interexchange carriers. There are situations where ANI is different than the telephone number of the station that originates the call. Finally CoreTel's assertion that Verizon MD stated it "would pass CPN to CoreTel if CoreTel were to buy retail IXC trunks from Verizon"[27] is incorrect. Verizon MD's switching machines can not translate and connect 10-digit local calls, originated from the dial-tone lines they serve, to interexchange carrier Feature Group D trunk groups.

B. Collocation

48. Verizon MD demonstrated in its Checklist Declaration, ¶¶ 58-91, that it has satisfied its obligations for providing collocation as a component of Checklist Item 1. Two CLECs – AT&T and Covad – filed comments regarding Verizon MD's compliance with this requirement. As with all of its comments on Verizon compliance with the Checklist in Maryland, Cavalier simply filed its Virginia 271 State proceeding testimony as part of this case. Cavalier did not submit any testimony disputing Verizon's MD's compliance with this requirement. As will be demonstrated below, the claims raised by

[27] Mingo at 8.

these parties are without merit and are not properly a part of this proceeding. As noted in the Checklist Declaration, Verizon MD uses the same collocation methods and procedures that the FCC found acceptable in the New York, Massachusetts and Pennsylvania 271 proceedings.

49. Although Cavalier failed to identify any specific concerns regarding Verizon MD's collocation offering, it submitted its Virginia 271 Testimony in which it raised a number of unsupported issues with Verizon VA's collocation practices. This testimony should be given no weight. In its Virginia testimony, Cavalier alleged it "experienced serious problems with collocating in Verizon Central Offices," and identified a panoply of alleged problems with Verizon VA's practices and procedures including "excessive costs for initial collocation sites, excessive wait times for collocation sites, misrepresenting the availability of collocation space, excessive power charges, unjustified power charges, excessive collocation augment charges, excessive collocation augment waiting periods, unreasonable restrictions on the use of cell phones, unreasonable restrictions on minor details like the use of tie wraps, inadequate access to collocated equipment, and discriminatory and harassing treatment."[28]

50. In the Virginia proceeding, Verizon VA provided extensive testimony and information that clearly demonstrated that every accusation leveled by Cavalier was patently false. Verizon VA made a thorough showing that, contrary to Cavalier's assertions, it complies with all established State and Federal requirements. The Virginia SCC in the 271 Proceeding agreed:

> Cavalier raises several issues related to the terms, conditions, and costs of collocation. On June 28, 2002, the

[28] Cavalier VA Testimony at 9-10.

> Commission issued its Virginia Collocation Order, approving changes to the Virginia Collocation Tariff. These changes answer most of the issues complained of by Cavalier. The remaining issues, such as access problems, the prohibition against tie wraps, and "an alarming incident in which one of [Verizon Virginia's] employees climbed onto a Cavalier equipment rack and shook it" fail to support a finding that such practices preclude an efficient carrier a reasonable opportunity to compete. Nor do these incidents prove systematic practices that are unjust, unreasonable, and discriminatory.[29]

51. Accordingly, no grounds exist to find that Verizon MD is not in compliance with its collocation requirements based on Cavalier's Virginia testimony that was roundly rejected in that proceeding.

52. Covad Communications raises one complaint regarding Verizon MD's collocation compliance.[30] Covad criticizes Verizon MD's position on conversions from virtual to cageless arrangements. Covad has raised the identical issue before the FCC on two separate occasions without success. As stated in Verizon's most recent response to Covad's complaint in August of 2001:

> Covad repeats an argument it previously raised with the FCC Enforcement Bureau. Covad claims it was unfairly forced to establish new physical collocation arrangements in central offices where it already had virtual collocation arrangements because Verizon refused to just convert its existing, in-service virtual collocation arrangements to physical arrangements. The Enforcement Bureau has already denied Covad's request to make this claim the subject of its accelerated docket process, and Verizon previously provided information that proved to the bureau's satisfaction that Verizon's policies are consistent with the FCC's collocation rules. As Verizon explained to the Enforcement Bureau, Verizon did not convert Covad's in-place virtual collocation arrangements to physical

[29]Virginia SCC Consultative Report, p. 27.

[30] Covad at 35.

> arrangements in every central office where Covad requested such conversions because in some cases, Covad's virtual collocation equipment was commingled with Verizon equipment in the same equipment bays and line ups. The Commission's rules have never required such commingling for physical collocation arrangements. Given the commingled nature of the equipment, Verizon could not implement the reasonable security measures permitted under the Commission's rules to properly protect its equipment. However, in those instances, Verizon agreed to provide cageless collocation to Covad in other locations in the same offices where space for cageless collocation was available.[31]

53. Covad also raised these same issues in the Pennsylvania 271, where the FCC found that Verizon PA's migration policy does not "affect[ ] Section 271 compliance."[32]

54. Finally, Covad raised these identical issues in the Virginia 271 State Proceeding, where they were dismissed by the Virginia SCC:

> Covad criticized Verizon Virginia's practices regarding conversions from virtual to cageless collocation arrangements. Verizon Virginia points out that the FCC rejected this same claim in Pennsylvania. In that proceeding, the FCC invited Covad to file a complaint concerning this issue. In this case, Covad failed to provide any evidence that would support a different finding or treatment of the issue in Virginia.[33]

55. The same is true here. As explained above and fully demonstrated to the satisfaction of the FCC and the Virginia Commission, Covad's complaint is meritless.

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[31] Letter to Alexander Star, Chief Enforcement Bureau, from Jason Groves dated August 24, 2001. A copy of the entire letter is provided as Attachment 216.

[32] Pennsylvania Order ¶ 101.

[33] Virginia SCC Consultative Report p. 27.

56. AT&T raises several concerns regarding Verizon MD's issuance of credits to CLECs for the return of collocation space. AT&T also alleges that Verizon MD fails to offer CLECs reduced collocation prices for returned space.[34]

57. AT&T suggests that Verizon MD has failed to meet its tariff obligation to provide CLECs that have vacated their collocations with credits for Space and Facilities Charges once a subsequent CLEC or Verizon MD reuses the vacated space. This tariff obligation exists for both state and federal collocation tariffs and is intended to ensure that Verizon MD does not over-recover its costs to condition central office space for collocation arrangements.[35] AT&T apparently reaches its conclusion without factual evidence. Instead, it relies upon its unfounded observation that "[E]ven though CLECs, including AT&T, have returned a substantial amount of collocation space to Verizon, including space in Maryland, apparently no credits have ever been issued, certainly none to AT&T."[36]

58. Contrary to AT&T claims, Verizon MD is not ignoring its obligations to CLECs. As AT&T is fully aware, Verizon MD has been actively working to resolve this issue with AT&T and the Maryland Commission Staff in Maryland's Collocation Case. [37]

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[34] AT&T Nurse, Kirchberger Dec. at 51- 55.

[35] In the Matter of *Local Exchange Carriers Rates, Terms, and Conditions for Expanded Interconnection through Physical Collocation for Special Access and Switched Transport;*; CC Docket No. 93-162. Rel. June 13, 1997 ¶ 55 ("If any LEC did not use the procedures outlined above in cases where an initial interconnector abandoned its physical collocation equipment and space after paying a nonrecurring charge for these assets and a subsequent interconnector paid a nonrecurring charge for these same assets or the LEC itself has used these assets, we order the LEC to make prorated refunds as outlined above.")

[36] AT&T Nurse, Kirchberger Dec. at 51.

[37] In connection with the Maryland collocation proceeding, PSC Case No. 8913, Verizon, Sprint, AT&T, WorldCom and other CLECs are actively negotiating a settlement to resolve all remaining collocation issues raised by the CLECs. The parties have now resolved all of

Verizon MD has fully acknowledged its tariff obligations to provide credits to CLECs for returned space upon occupancy by another carrier and receipt of payment from the subsequent collocator. In fact, it has been diligently working to establish thorough and accurate administrative processes to meet this tariff obligation. These processes are quite complex and require the tracking and cross-referencing of returned collocation arrangements and initial payments by the original collocator with subsequent re-use and payment by one or several CLECs, which may occur years after the space has been vacated. Verizon has worked through the numerous and painstaking complexities required to establish workable and accurate processes to ensure compliance with its tariff collocation refund obligations. Verizon has recently begun implementation of credit issuance for the handful of vacated collocation arrangements that have been occupied by subsequent collocators.[38] Verizon recently sent AT&T its first notification letter regarding the credits due to AT&T as a result of subsequent CLEC reuse of space for four sites. This letter is provided as Attachment 215.[39]

59. Verizon is issuing credits to CLECs for collocation arrangements that have been occupied by subsequent collocators and for which Verizon has received payment. On a going forward basis, Verizon will issue notification letters to the vacating CLEC

Sprint's issues, and are actively negotiating to resolve AT&T's only remaining issue, related to Verizon's tariff provision governing refunds to the CLECs when they vacate collocation space. When this issue is resolved, Verizon will file proposed tariff language.

[38] Although Verizon East has processed more than 5,700 notices of termination, it has only reassigned space in 49 of those terminated arrangements.

[39] The four sites reflected in the notification letter are not located in Maryland. Currently, there are not any Maryland sites for which AT&T vacated space that have been subsequently re-used by another collocator or by Verizon.

when space has been reassigned and occupied by a subsequent collocator or reused by Verizon. In addition, Verizon has offered to issue the vacating CLEC credits within a specified time frame upon receipt of payment from the subsequent collocator.

60. AT&T also complains that a CLEC has no way to track and verify the status of returned space. It claims that there is no process for a CLEC to confirm that its collocation space has been returned to Verizon and that Verizon has accepted the final steps of vacating. It further alleges that Verizon will not provide CLECs with status reports of returned space on a periodic basis or even upon request. AT&T is wrong. First, Verizon stops billing monthly charges once space has been vacated and the CLEC has removed its equipment. This is a clear indication to the CLEC that Verizon has accepted the vacated space. Second, AT&T has previously demonstrated it has the ability to track all collocation space it has returned to Verizon via AT&T's November inquiry to Verizon.[40] Third, as explained above, Verizon has implemented a process to notify CLECs when space has been subsequently occupied by and payment received from another CLEC. It would be pointless to communicate anything until space is reused and occupied, because until such reuse occurs, there would be nothing to report. Finally, contrary to AT&T's assertions, Verizon ***has,*** in fact, provided AT&T with status of its returned space upon request.[41]

61. AT&T also opines that Verizon should be required to affirmatively advertise the availability and the discount for returned space to other potential users.

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[40] Attachment 217 is a November 16, 2001 letter and spreadsheet from AT&T to Verizon requesting status of space vacated by AT&T and returned to Verizon.

[41] Attachment 218 is Verizon's November 29, 2001 response to AT&T's inquiry on returned space.

AT&T suggestion is without merit. First, this is not a checklist compliance issue since no statutory or rule requirement exists for Verizon to actively advertise the availability of returned space. Verizon meets its federal and state requirements regarding space availability via its collocation website that provides CLECs with information on the availability of collocation space in its central offices. The website identifies central offices where all remaining physical collocation space has been exhausted. Verizon MD updates the website with information on space limitations within 10 calendar days after determining that physical collocation space is not available in an office. Second, such a requirement would be administratively burdensome and would have little practical effect. Verizon would have to devote extensive resources to maintain and post returned space information that would be subject to continuous change. Further, it would be impossible for Verizon to identify a "reduced price," as AT&T suggests, since the final price charged to a subsequent CLEC, which reuses space, is contingent upon how much space is reused, the length of time from the initial termination to subsequent occupancy, and the specific tariff under which the subsequent CLEC is ordering collocation.

62. It is important to note that Verizon's compliance with this tariff obligation is no different in Maryland than the other states throughout the entire Verizon footprint including Pennsylvania, Massachusetts, and New York where the FCC found Verizon's collocation offerings to be in compliance with its Checklist obligations. AT&T has not provided any information in this proceeding that supports a different finding in Maryland.

63. Therefore, the issues raised by AT&T, Cavalier, and Covad have either been satisfactorily resolved by Verizon or the FCC; or they do not indicate that Verizon MD fails to meet its collocation obligations. The Commission should reject the CLEC's

allegations and find that Verizon MD has demonstrated compliance with all its Collocation requirements under Checklist Item 1.

IV. CHECKLIST ITEM 2: NONDISCRIMINATRY ACCESS TO NETWORK ELEMENTS

A. Access to Network Elements

64. Verizon MD demonstrated in its Checklist Declaration, ¶¶ 92-97, that it provides nondiscriminatory access to UNE elements. Only one party -- Starpower -- commented on the nondiscriminatory access section of Checklist Item 2, claiming that "Verizon has continuously refused to provide Starpower with Common Channel Signaling ("CCS") links at UNE rates, instead unjustifiably billing Starpower at the more expensive special access rate."[42]

65. Starpower is incorrect. Verizon MD began offering a UNE CCS (also called Signaling System 7 or "SS7") product in December 1998.

66. SS7 Links can either be ordered as a UNE or as a special access service from the FCC No. 1 tariff. To date, all SS7 Links ordered in Maryland have been ordered out of the FCC No. 1 tariff, which allows the ordered links to be used to support both local and non-local traffic. Starpower contends that its orders were issued as a UNE request (which would indicate that the links would only support local traffic). Verizon MD's records show, however, that the orders were placed as special access, and Verizon MD has been appropriately billing the links as ordered.

67. Starpower's issue is clearly a dispute between two carriers over specific orders issued by Starpower and is not a 271 compliance issue. Starpower's initial

[42] Starpower at 3.

ordering of SS7 links occurred at approximately the same time as the availability of the UNE product, that is approximately four years ago. Indeed, Starpower has admitted in discovery responses that it has not placed any orders for SS7 links in 2002.

68. Verizon MD stands ready to work with Starpower to convert its existing configuration(s) from access to UNEs if the configuration meets the requirements of an unbundled element.

69. In short, Verizon MD is in compliance with its Checklist Item 2 obligations, and Starpower has presented no evidence to the contrary.

B. UNE Rates

70. WorldCom alleges that Verizon MD current does not have TELRIC-based UNE rates and therefore it is not in compliance with Sections 251 and 252 of the Act. Consequently, it asserts that Verizon MD has not satisfied Checklist Item 2, nondiscriminatory access to network elements.[43] AT&T maintains that 271 compliance cannot be determined until the Commission issues a final order in its UNE Proceeding.[44]

71. As stated in the Checklist Declaration, the Commission set TELRIC-compliant recurring rates for various unbundled network elements with Order. 74365 dated July 2, 1998. Clearly, UNE rates will not be set within the context of this 271 proceeding. In fact, they need not be set here as these parties have acknowledged new TELRIC UNE rates have been fully litigated and are currently before the Commission for decision in Case No. 8879. The decision in that case will dispose of the UNE Pricing issues raised in the WorldCom and AT&T declarations.

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[43] Reply Testimony of Michael R. Baranowski, July 15, 2002 and Reply Testimony of Terry L. Murray, July 15, 2002.

[44] AT&T Nurse, Kirchberger Dec. at 8.

72. Accordingly, the Commission should reject WorldCom's and AT&T's claims that Verizon MD has not satisfied its obligation under Checklist Item 2 to provide TELRIC-based UNE rates.

V. CHECKLIST ITEM 3: POLES, DUCTS, CONDUITS AND RIGHTS-OF-WAY.

73. Verizon MD demonstrated in its Checklist Declaration, ¶¶102-117, that it has satisfied its obligations under Checklist Item 3. Only one party, Cavalier, filed comments regarding Verizon MD's compliance under Checklist Item 3. As will be demonstrated below, the claims raised by Cavalier are without merit.

74. As an initial matter, it must be noted that Cavalier filed no allegations related to Verizon MD's compliance with Checklist Item 3. Instead, Cavalier "adopted" its Virginia testimony, with no basis as to why its claims in Virginia have any relevance to Verizon MD's performance and no support for its contention that Cavalier has experienced similar or identical problems in Maryland as those it allegedly experienced in Virginia

75. Finally, even disregarding Cavalier's total lack of Maryland-specific evidence, their Virginia claims were rejected by the Virginia State Corporation Commission which concluded that "Cavalier has failed to provide any evidence that Verizon Virginia's policies and practices regarding pole attachments are discriminatory towards it or other CLECs."[45]

[45] Virginia SCC Consultative Report, p. 97.

VI. CHECKLIST ITEM 4 - LOCAL LOOP TRANSMISSION FROM THE CENTRAL OFFICE TO THE CUSTOMER'S PREMISES, UNBUNDLED FROM LOCAL SWITCHING AND OTHER SERVICES

76. Verizon MD demonstrated in its Checklist Declaration, ¶¶ 118-183, that it has satisfied its obligations under Checklist Item 4. Verizon MD provides or offers to provide local loop transmission from the central office to the customer's premises, unbundled from local switching or other services. Verizon MD has demonstrated that it provides local loops unbundled from local switching or other network elements using the same processes and procedures in Maryland as are used in Pennsylvania and the other states where Verizon has received 271 approval from the FCC. In Pennsylvania, the FCC found that "Verizon has adequately demonstrated that it provides unbundled local loops as required by Section 271 and our rules."[46] The same is true in Maryland.

77. No party raised any significant issues in their declaration in this proceeding with respect to Verizon MD's provisioning and maintenance performance for analog, digital (ISDN), xDSL, or shared loops. These products comprise the vast majority of loops provided to CLECs. A few parties, however, have alleged that Verizon MD has failed to satisfy its Checklist 4 obligations. As will be demonstrated below, the allegations made are without foundation.

A. Verizon MD Satisfies Its Obligation To Provide DS-1 And DS-3 Loops

78. Several CLECs assert that Verizon MD's provisioning policy regarding UNE DS-1 facilities, which is set forth in a July 24, 2001 Notice to CLECs,[47] is

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[46] *See Pennsylvania Order* ¶ 76. *See also Massachusetts Order* ¶ 124; *Application by Bell Atlantic New York for Authorizations Under Section 271 of the Communications Act to Provide In-Region InterLATA Service in the State of New York, Memorandum Opinion and Order*, 15 FCC Rcd 3953 (1999) ("*New York Order*") ¶ 273.

[47] *See* Checklist Declaration Attachment 210.

discriminatory. Allegiance opines that Verizon MD discriminates against its wholesale customers since it does not reject DS-1 orders from its retail end users for no facilities. Allegiance contends that "To the extent that Verizon provides whatever upgrades are necessary to make DS-1 facilities available for use by its retail customers, rather than reject their orders, it should do the same for its CLEC wholesale customers."[48] AT&T also cries foul over the long standing Verizon MD policy by claiming "[t]he process favors Verizon's retail operations and discriminates between Verizon and CLEC end user customers."[49] Cavalier contends that Verizon MD's policy as described in a Verizon policy letter issued to all CLECs "provides direct evidence of deliberate and intentional discrimination.[50] Despite the firm precedent to the contrary, these CLECs apparently believe that Verizon MD is obligated to expend capital to build new loops or add expensive electronics to existing loops for the sole purpose of providing DS-1 loops as unbundled network elements.

79. The CLECs are wrong. Verizon MD has an obligation to provision DS-1 facilities as UNEs only where such facilities currently exist. Verizon MD does not have an obligation to build new facilities or add electronics to existing facilities for the purpose of providing those facilities as an unbundled element. The construction of new facilities or the addition of electronics to existing facilities will be provided to CLECs as a Special Access service under applicable tariff. Under the FCC's rules, an ILEC is not required to

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[48] Allegiance at 5.

[49] AT&T Nurse, Kirchberger Dec. at 22.

[50] Cavalier at 6. Although Cavalier complains about this issue it has provided no Maryland specific testimony upon which to base its contentions.

build new facilities or install additional equipment. In fact, the FCC has already addressed this very issue in previous 271 cases and held that Verizon's DS-1 UNE provisioning policy, which the CLECs complain about here, is consistent with current FCC rules and 1996 Act, as determined by the federal courts.[51]

80. Verizon MD meets its unbundling obligation under the Act and FCC rules by providing high capacity loops where facilities are available.[52] Indeed, Verizon MD goes beyond its unbundling obligation in certain situations where not all of the necessary facilities are available, but the loop can be activated without the need for additional construction or equipment installation. Where there already are suitable Verizon loop facilities serving an end user's location, Verizon MD will utilize those facilities to fill a CLEC order for an unbundled high capacity loop. In these cases, Verizon MD will cross-connect the high capacity loop to the CLEC's collocation arrangement and, if necessary, install the appropriate cards, provided the central office common equipment and the equipment at the end user's location necessary to create a high capacity loop are available. In instances where no facilities are available and Verizon MD must notify CLECs of this fact, Verizon MD contacts CLECs and provides them with the reason(s) why the requested facilities were not available.[53]

81. This policy does not restrict the ability of CLECs to get DS-1 loops to locations where a customer either has DS-1 service, or had DS-1 service, and all the

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[51] Pennsylvania Order ¶¶ 91-92; New Jersey Order ¶ 151.

[52] *See* DS1 and DS3 Unbundled Network Elements Policy, Verizon, July 24, 2001 (the "Policy Statement"), which is provided as Attachment 210 to the Checklist Declaration.

[53] The Allegiance claim at page 6 that only half the time Verizon MD provides a reason code is flatly incorrect. Providing such codes are a common course of business that Verizon MD fulfills.

necessary equipment is still in place. Verizon MD will install the appropriate high capacity card in the spare slots or ports of the existing equipment, and perform cross-connection work between the common equipment and the wire or fiber facility between the central office and the customer premises. Furthermore, Verizon MD will terminate the high capacity loop in the appropriate network interface device at the customer premises, such as a Smart Jack or a Digital Cross Connect ("DSX"). Finally, where no facilities exist, "wholesale customers of Verizon, like its retail customers, may request Verizon to provide DS-1 and DS-3 services pursuant to the applicable state or federal tariffs."[54]

82. Verizon MD will not for a UNE high capacity loop service request: (a) deploy new copper or fiber facilities, (b) deploy new multiplexers in the central office or at the customer's premises where existing equipment is fully utilized, (c) deploy a new apparatus case on the loop or transport facilities where existing equipment is fully utilized, (d) reconfigure a multiplexer (that is, rewire and reprogram a shelf on the multiplexer from DS-3 to DS-1), (e) deploy new facilities where it cannot correct a defect in existing facilities and no spare facilities are available or (f) unload a properly loaded pair.[55]

83. Contrary to the CLECs' allegations, Verizon MD policy violates neither FCC rules or the Act. In fact, under the Act, Verizon MD is required to unbundle *only* its

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[54] *See* Policy Statement provided as Attachment 210 to the Checklist Declaration at p. 2.

[55] In order to provide CLECs with more information about the reason that a request for a high capacity loop has been rejected for "no facilities," Verizon MD provides one of seven reasons for the rejection, as Allegiance correctly notes. Allegiance at 4. However, Allegiance is wrong in asserting that two of these reasons – no repeater shelf and no apparatus/doubler can be remedied without any construction and with a modest outlay of money. *Id.*

existing network for competitors. The United States Court of Appeals for the Eighth Circuit has held that the requirement to unbundle applies only to the network the incumbent LEC already has, not to some superior network that it otherwise would have to build for a requesting CLEC.[56] Simply put, the Act does not, in any way, require Verizon MD to build a new network or new facilities for a CLEC. Network construction is not a UNE.

84. Verizon MD's "no facilities" policy is the same as Verizon PA's policy. Specifically, the FCC concluded in approving the Pennsylvania application:

> We disagree with commenters that Verizon PA's policies and practices concerning the provisioning of high capacity loops, as explained to us in the instant proceeding, expressly violate the Commission's unbundling rules. Accordingly, we decline to find that these allegations warrant a finding of checklist non-compliance.[57]

85. In the New Jersey Order the FCC reached the same result. There the FCC held that "[t]his is the same policy the Commission found not to expressly violate the Commission's unbundling rules in our Verizon Pennsylvania Order. Accordingly, we decline to find that these allegations warrant a finding of checklist noncompliance." New Jersey Order, ¶ 151. In short, this is exactly the same policy that Verizon follows in other states where Verizon has obtained long distance authority and that the FCC has found satisfies the checklist.

86. Thus, despite the allegations raised by the CLECs in this proceeding, this policy does not violate FCC rules or warrant a recommendation of checklist

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[56] *Iowa Utilities Board v. FCC*, 120 F.3d 753, 812-13 (8th Circuit 1997), *aff'd in part and rev'd in part, AT&T Corp. v. Iowa Utilities Board*, 119 S. Ct. 721 (1999).

[57] *See* Pennsylvania Order, ¶ 92 (citing *Massachusetts Order* ¶ 10, *Texas Order,* 15 FCC Rcd at 18366, ¶ 23).

noncompliance by this Commission. Moreover, despite the CLEC's attempts to introduce specific complaints about Verizon MD's "no facilities" policy or proposed modifications to that policy in this proceeding, the fact is the FCC already has determined that such complaints are not germane to a Section 271 approval proceeding. The FCC has ruled that:

> To the extent that commenters have specific disputes with Verizon PA's actual practice in implementing these policies, such disputes are best addressed in an alternative forum. As we have stated in other section 271 orders, new interpretative disputes concerning the precise content of an incumbent LEC's obligations to its competitors, disputes that our rules have not yet addressed and that do not involve *per se* violations of the Act or our rules, are not appropriately dealt with in the context of a section 271 proceeding.[58]

87. Furthermore, the FCC has issued a Notice of Proposed Rulemaking, which, among other things, "[s]eek[s] comment on whether application of a more refined impairment analysis would result in a continued requirement of access to all capacity levels for unbundled loops."[59] This review of the FCC's unbundling rules was given greater urgency by the D.C. Circuit's May 24, 2002 order remanding these rules to the FCC because of the FCC's failure to give the Act's "impairment" requirement meaningful application.[60] In the Triennial Review Notice, the FCC also stated specifically that "we are seeking comment on whether, and to what extent, incumbents

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[58] *Id.*

[59] *See* CC Docket Nos. 01-339, 96-98, and 98-147, *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; and Deployment of Wireline Services Offering Advanced Telecommunications Capability* "Notice of Proposed Rulemaking" (rel. December 20, 2001) ("the Triennial Review Notice"), at ¶ 52.

[60] *See United States Telecom Ass'n v. Federal Communications Commission,* No. 00-1012, Slip Opinion (D.C. Cir. May 24, 2002).

should be obligated to complete orders for high-capacity loops when spare facilities and or capacity on those facilities is unavailable."[61] Since a number of companies have the capability of providing the facilities for High Capacity Loops, ILECs, including Verizon, have argued in that proceeding that their High Capacity Loops should not be subject to the 1996 Act's unbundling requirements. In its recent decision, the D.C. Circuit found that the FCC had given insufficient weight to this and similar arguments when it created its list of required unbundled elements. Until the FCC's rules are modified, however, Verizon MD will continue to provide high capacity loops and other UNEs as required by law.

88. Contrary to the CLEC's allegation, Verizon has no legal obligation under federal and state law to install additional electronics to provide DS-1 service to CLECs at UNE rates. The CLECs nonetheless claim that it is discriminatory for Verizon MD to refuse to deploy new equipment for purchasers of UNEs when it is willing to do so for purchasers of DS-1 special access. This argument is a red herring. Verizon's policy is fully consistent with the Act's unbundling requirements and does not discriminate against these CLECs or any other UNE purchasers. Notably, these CLECs do ***not*** allege that Verizon discriminates against UNE orders in favor of orders for DS-1 special access when existing facilities ***are*** available – nor can they. Moreover, where no facilities are available to provision a UNE order, Verizon MD has no legal obligation to install additional electronics to provide DS-1 service to CLECs at UNE rates under the Act and the FCC's rules.

89. Verizon MD will, however, build new DS-1 facilities for wholesale

[61] *Triennial Review Notice* at n.118.

customers, such as AT&T, *and for all other customers* on the same terms under its special access tariffs or applicable state tariffs. As Verizon stated in its July 24 Notice, "Verizon generally will undertake to construct the facilities required to provide service at tariffed rates (including any applicable special construction rates) if the required work is consistent with Verizon's current design and construction program." Requests from all of Verizon's customers who order service under the appropriate special access tariffs or applicable state tariffs, whether they are CLECs, IXCs or end users, are handled in the same manner, precluding any claim of discrimination.

90. Moreover, Verizon MD is not required to use the same rates and rate structure for all customers who order DS-1 services or UNEs from Verizon MD as some CLECs imply. Verizon MD is not legally obligated to charge the same rate to all customers – indeed, the suggestion that the non-discrimination provisions (whether in the Act, the FCC rules, or state law) require identical rates and rate structures for all customers is ridiculous. If that were the case, the below-market UNE rates that CLECs pay for existing DS-1 loop facilities would unlawfully discriminate against Verizon's DS-1 special access customers, since DS-1 special access customers must pay the higher tariffed rates for the same facilities. Verizon MD's duty to charge uniform *pricing* extends only to classes of customers who are similarly situated – which UNE customers and tariffed special access customers are not.

91. The Virginia SCC found that Verizon VA satisfied this checklist requirement because "[b]ased on the Verizon New Jersey Order, Verizon Virginia's "no facilities" policy is compliant with FCC rules."[62] Nonetheless, the VA SCC also

[62] Virginia SCC Consultative Report, pp. 115-116.

expressed some concerns with Verizon's policy on construction of high capacity loops. These concerns related to the circumstances under which Verizon VA would construct various types of UNE loops and the impact the interpretation of certain FCC accounting rules and TELRIC principles should have in determining whether Verizon VA is required to construct new DS-1 and DS-3 loops for CLECs.

92. None of these concerns undercuts the fundamental premise upon which Verizon's policy is based: that the Act does not, in any way, require Verizon to build new network elements or facilities for CLECs. Network construction, regardless of how it is categorized for administrative or financial purposes, is not a UNE. The United States Court of Appeals for the Eight Circuit has clearly held that a UNE purchaser takes the network as it finds it, and cannot require that it be improved or expanded in order to provide a UNE not otherwise available.[63] The FCC has recently reconfirmed this in the FCC Virginia Consolidated Arbitration Order at Paragraph 468 where it explicitly stated "Verizon is also correct that the Act does not require it to construct network elements . . . for the sole purpose of unbundling those elements for . . . other carriers."

93. Accordingly, even if the CLECs' assertions had merit, which they do not, CLEC complaints regarding Verizon's "no facilities" policy are a matter that is before the FCC in the Triennial Review proceeding. If the CLECs are unhappy with the FCC's unbundling policies and want the FCC to expand its requirements on a going-forward basis, they should press their arguments in that proceeding. Verizon's DS-1 and DS-3 "no facilities" policy is not a Section 271 checklist compliance issue.

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[63] *See Iowa Utilities Board v. FCC*, 120 F.3d 753, 812-13 (8th Circuit 1997), *aff'd in part and rev'd in part, AT&T Corp. v. Iowa Utilities Board*, 119 S. Ct. 721 (1999)

B. Covad's DSL Issues

94. Only one CLEC -- Covad -- raises any claims related to the provisioning of DSL services. As will be demonstrated below, none of these claims has any merit, and they should be rejected. Before turning to the substance of these claims, we must note that Covad raised exactly the same claims in the Virginia 271 proceeding. Indeed, the allegations are almost identical, word for word.[64] Each claim was rejected by the Virginia Hearing Examiner who concluded "[B]ased on the FCC's approval of the same processes and procedures in other Verizon jurisdictions . . . Verizon Virginia's provisioning of xDSL loops complies with the requirements of Checklist Item 4."[65]

95. Covad asserts that "Verizon's imposition of line and station transfer charges on DSL competitors is discriminatory."[66] This is an inaccurate claim that should be rejected. If a DSL loop does not qualify for DSL service due to the type of facility used to provide the loop, or due to the technical characteristics of the loop, Verizon MD offers the CLEC the opportunity to have the service "transferred" to a copper loop that will support the service, assuming such a facility exists. This effort could involve swapping copper to fiber facilities for in-service working customers. Line and station transfers include additional work activities for Verizon, especially when they involve working circuits. Steps must be taken to ensure that the disruption to the in-service customer is minimal. Should the CLEC choose this alternative, a TELRIC based rate is

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[64] Compare in Case No. PUC2002-00046, Verizon Virginia Inc.'s compliance with the conditions set forth in 47 U.S.C. ¶ 271(c) at 2-4, 9-11 and 13-18 to Phase A Testimony of Valerie Evans and Michael Clancy on behalf of Covad Communications Company in Case No. 8921. Review by the Commission into Verizon Maryland Inc.'s Compliance with the conditions of 47 U.S.C. ¶ 271(c) at 2-5, 5-8 and 9-15.

[65] Virginia SCC Consultative Report, p. 113.

imposed.

96. Covad claims that neither Verizon MD retail nor CLECs purchasing unbundled loops are required to pay an equivalent TELRIC charge. Covad's complaint is misplaced. Verizon MD charges retail customers Commission-set retail rates, not TELRIC rates. Verizon MD, just like Covad, can choose to include such functionality into the overall cost of providing service on a deaveraged basis. Comparing TELRIC pricing to pricing for Verizon MD retail customers compares apples to oranges. As for CLECs purchasing UNE Loops, if the CLEC requests a line and station transfer, the corresponding TELRIC rate would also apply. In addition, Covad agreed to such charges and to the swapping process in the amendments to its interconnection agreements. Covad also actively participated in the DSL Collaborative sessions in New York where the processes, procedures and charging for this activity were established. The New York Commission subsequently issued an Order to implement line and station transfers, as agreed upon by the industry in the Collaborative. Verizon MD follows the same processes and procedures here.

97. Covad also states the DSL loop provisioning interval should be shortened.[67] The sole argument provided by Covad is that Verizon MD is providing good service - and therefore the Commission should "raise the bar." Verizon MD is satisfying the current intervals in comparison to retail service and is therefore already providing non-discriminatory service in parity with retail. Moreover, Verizon has informed Covad at a recent Executive Quarterly Review meeting that it should bring such requests to the

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[66] Covad at 4.

[67] Covad at 5.

CLEC User Forum for industry consideration

98. Covad also opines that the interval to provision DS1s in Maryland is longer than in other Verizon states. While this is not a 271 compliance issue, Verizon MD notes that this issue was discussed at the June 11, 2002 industry change management meeting. Subsequently, on July 30, 2002 Verizon notified the industry that effective August 20, 2002, the interval in Maryland (and other states) would be reduced from 13 to 9 days (for less than 10 loops).

99. Concerning cooperative testing, Covad states that there is "no way of ensuring that the Verizon Technician was at the NID when the test was conducted."[68] Covad also goes on to state that Verizon should be required to tag all circuits at the demarcation point. Verizon MD's process is to tag DSL loops at the NID and to do cooperative testing at the NID. Covad offers no data that Verizon MD is not following these processes.

100. Covad contends the Commission should reject Verizon's cooperative testing charge because Verizon is the "cost-causer."[69] First, this is an issue that should be raised outside the venue of this proceeding, as it is not a 271 compliance issue. Second, Verizon MD does not charge CLECs for continuity testing, and therefore Covad's testimony is moot on this issue.

101. In addition, Covad argues that Verizon MD is not satisfying its obligation to provide access to remote terminals so that CLECs, like Covad, can provide DSL

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[68] Covad at 7.

[69] *Id.*

service to end users.[70] Covad is wrong. In its Checklist Declaration, Verizon MD outlines the options available to CLECs to provide DSL to end users served from remote terminals by using Verizon MD's subloop unbundling offering.[71] Basically, a CLEC may collocate in or adjacent to the remote terminal and interconnect at the feeder distribution interface to obtain access to the copper distribution portion of the loop. The CLEC can then either purchase unbundled dark fiber (where available) or purchase an unbundled transport element between their DSLAM and the central office. The CLEC can also use their own transport facility or that of an alternative third party. These alternatives comply with the requirements of the FCC's Advanced Services Order as well as the UNE Remand Order.

102. In fact, Verizon MD employs nearly identical methods and procedures to provide access to RTs in Maryland as are used in Massachusetts. In the Massachusetts 271 proceeding, the FCC found that Verizon provides nondiscriminatory access to subloops consistent with the requirements of Section 271 and the UNE Remand Order. The FCC stated, "[C]onsistent with our rules, Verizon allows collocation inside remote terminals on space-available basis. Where space is unavailable, competitive LECs may deploy an adjacent cabinet to access subloops through an interconnecting cable."[72] The FCC found that similar policies complied with the checklist in the Arkansas 271 proceeding.[73]

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[70] Covad at 9-15.

[71] Checklist Declaration, ¶ 165.

[72] Massachusetts Order ¶¶ 154-155.

[73] *See* CC Docket No. 01-194, *In the Matter of Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc.*

103. The Massachusetts DTE recently reaffirmed Verizon's compliance by stating:

> According to the FCC, "access" to an unbundled network element refers to the means by which requesting carriers obtain an element's functionality in order to provide a telecommunications service. Local Competition Order at ¶ 269. *Verizon is currently providing CLECs with such "access" through a line station transfer (i.e. to migrate a DLC-served customer onto an all-copper loop) or through RT collocation combined with subloops, so that CLECs can provide xDSL services when loops are served over fiber.*[74]

104. Covad complains that while it "wants the option of traditional collocation,"[75] it may be "cost prohibitive" for Covad to collocate a DSLAM at or near a remote terminal, and, therefore, it would not be commercially viable to serve the customer. Covad goes on to complain that even if Covad were to collocate a DSLAM, it would have a problem incurring the cost of dispatching its own technicians to run cross connections on its own equipment.[76]

105. Covad's complaint regarding Verizon MD's offerings is one of commercial viability, not compliance with the FCC rules and regulations or the Act. Section 271(c)(2)(B)(ii) of the Act requires a Section 271 applicant to offer "nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)." Section 251(c)(3) of the Act requires the incumbent LEC to "provide to any requesting telecommunications carrier . . . nondiscriminatory

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d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Arkansas and Missouri, ("Arkansas 271 Order"), ¶ 105 (released November 16, 2001).

[74] Massachusetts DTE Order No. DTE-01-20, July 11, 2002, at 238 (citations omitted).

[75] Covad at 9, footnote 3.

access to network elements on an unbundled basis at any technically feasible point under rates, terms, and conditions that are just, reasonable, and nondiscriminatory . . . ."[77] Nowhere is it a requirement for a 271 applicant to ensure that any particular CLEC, regardless of resources, capabilities or competencies, is able to offer a commercially viable retail product through the purchase of UNEs. Furthermore, Covad has failed to analytically support its allegations regarding "commercial viability." Accordingly, Covad's claim that it does not have "a commercially viable means to provide DSL services through Verizon's remote terminals" does not demonstrate checklist noncompliance and should be rejected.

106. Covad also attempts to make Verizon MD's future deployment of its PARTS (Packet At Remote Terminal Service) offering a 271 issue. Covad notes that "Verizon announced the introduction during the third quarter of 2002 in the Verizon East (former Bell Atlantic/NYNEX) territory of an end-to-end DSL access service at the remote terminal over next generation digital loop carrier (NGDLC) equipment, also known as [PARTS] architecture."[78] Covad asserts that, as part of this 271 proceeding, the Commission should:

> [R]equire Verizon to offer an end-to-end UNE loop provisioned over the fiber-fed NGDLC architecture, and the right to request the full set of features and functions supported on the NGDLC platform, as those features and functions become commercially available. If the Commission should decide not to require Verizon to offer an end-to-end PARTS UNE loop. . . the Commission [should] require Verizon to unbundle all of the components

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[76] *Id.*

[77] *See* Checklist Declaration ¶ 92.

[78] Covad at 15(citations omitted.)

> of the PARTS architecture, including giving CLECs the ability to own and collocate line cards in the NGDLC....To ensure competitive parity, this Commission should require Verizon to inform the Commission and competitors as business decisions are made to deploy PARTS in Maryland ....Covad hereby requests that the Commission stay any Verizon offering of retail services based upon a PARTS architecture until it has ruled in this proceeding[79]

107. These requests should be denied. First, as Covad notes, PARTS has not yet been deployed in Maryland and, as Verizon MD has noted above, the CLECs have no right to UNEs from an unbuilt, future network. Second, PARTS is an end-to-end packet switching service (not unbundled elements at TELRIC prices). Verizon MD is not obligated under the Act or any FCC regulations to provide packet switching as a UNE at this time. Indeed, the FCC in its UNE Remand Order expressly declined to unbundle packet switching, which is exactly what Covad is asking for here.[80] Third, Covad neglects to mention that Verizon has informed Covad that it will make this new service (as an end-to-end service) available to CLECs, as well as to Verizon's other wholesale customers, if and when it is deployed.

108. Furthermore, Covad's argument that the potential deployment of a service by Verizon is sufficient for the Commission to create a UNE is simply wrong. Without actual deployment, no basis exists to conduct an "impairment" analysis, which is the

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[79] *Id.* at 14-15.

[80] *See* UNE Remand Order at ¶¶ 306-317. In determining not to unbundle packet switching, the FCC considered the following factors: the widespread availability of advanced services equipment (*e.g.*, packet switches and DSLAMs); the collocation and interconnection costs that CLECs may incur without access to unbundled ILEC packet switching facilities; the fact that ILECs do not retain a monopoly position in the advanced services market; and public policy considerations, *i.e.*, the need to preserve some incentive to ILECs to continue to build new networks.

predicate for the creation of any UNE.[81] Moreover, the definition, terms and conditions of such a UNE would have to be established in the abstract.

109. Finally, Covad fails to disclose that the issues it raised here are currently pending before the FCC in various proceedings.[82] For example, the FCC is currently addressing, *inter alia*, the ILEC's obligation under the Act to make their facilities available as UNEs to CLECs for the provision of broadband services. Accordingly, even if Covad's requests were valid 271 issues (which they are not), it would be premature for the Commission to rule on these *same* issues prior to the FCC's resolution of such matters in the pending dockets.

110. The bottom line is that Verizon MD is satisfying its current obligations under the Act and FCC rules. In short, as the Virginia Hearing Officer found on the same evidence, Covad has failed to establish that Verizon MD has not satisfied any obligations under Checklist 4.

C. Cavalier's Virginia Loop "Evidence"

111. As noted above, Cavalier has annexed its testimony from the Virginia State 271 proceeding, which should be given no weight in Maryland. If Cavalier is

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[81] *See* 47 CFR § 51.319(c)(3). The FCC rules state that ILECs are obligated to unbundle packet switching services in only very limited circumstances that do not exist in Maryland. *Id.*

[82] *See* Triennial Review Notice. Issues relating to the terms and conditions under which ILECs would be required to offer advanced services are also raised in the context of pending legislation, *i.e.*, H.R. 1542, The Tauzin-Dingell Internet Freedom and Broadband Deployment Act of 2001. That bill, which passed the House of Representatives by an overwhelming majority (273-157) on February 27, 2002, would preclude collocation at the RT and unbundled packet switching. The FCC is also considering the issue of unbundled packet switching and line card collocation in *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Sixth Notice of Proposed Rulemaking, CC Docket No. 98-147 and 96-98 (rel. Jan. 19, 2001) ("*Line Sharing Reconsideration Order*"), at ¶ 56.

experiencing any loop provisioning difficulties in Maryland, it should provide Maryland specific data, but it has not. In the Virginia proceeding, Cavalier focused on two issues (in addition to the DS1 issue previously addressed): the provisioning of UNEs to CLECs when the Verizon end user is served by Integrated Digital Loop Carrier ("IDLC"), and Hot Cut performance. Although Cavalier claims that it is experiencing similar problems in Maryland, no evidence supports these claims. Furthermore, as is demonstrated in the Checklist Declaration ¶¶118-183 Verizon MD is providing CLECs excellent loop service. Finally, the Virginia SCC in the Virginia 271 proceeding concluded that Cavalier had failed to establish that Verizon VA was not complying with its Checklist 4 obligations.[83] Thus, principles of administrative efficiency and *res judicata* militate against a point-by-point rebuttal of Cavalier's Virginia claims in this proceeding. However, in further support of its demonstration that it has satisfied all aspects of Checklist Item 4 in Maryland, Verizon MD will respond to Cavaliers general allegations regarding IDLC and Hot Cuts.

1. IDLC

112. Cavalier takes issue with the fact that Verizon cannot provision a 2-wire analog unbundled loop using IDLC. As the FCC has previously recognized, this is a technological limitation of IDLC and BOCs that seek section 271 approval are required to establish procedures that enable CLECs to serve end user customers through stand-alone loops regardless of whether the BOC serves those customers through IDLC. Thus, the only issue for 271 purposes is whether Verizon MD has procedures in place that will

[83] Virginia SCC Consultative Report, p. 117.

allow a CLEC to obtain service for its new customer using a different loop, if one is available. The answer is "yes." Moreover, the procedures in place in Maryland are substantially the same as in New York, and in the New York 271 proceeding the FCC found that Verizon NY "demonstrates that it provides unbundled loops in accordance with the requirements of Section 271."[84]

113. The procedures are as follows: When Verizon MD receives a request for a 2-wire unbundled loop, for an end user that is currently served on IDLC, Verizon MD will first determine whether an immediate spare alternate facility (*i.e.*, copper or Universal Digital Loop Carrier or "UDLC") is available. If such a facility is available, then Verizon MD will transfer the customer to that alternate facility to provide the 2-wire UNE loop. Second, if Verizon MD determines that no immediate UDLC or copper loop is available for assignment to the CLEC, it then checks to see if an existing Verizon MD customer currently served by UDLC or copper in the same service area can be transferred to an IDLC facility, thereby "freeing up" an unbundled facility for the CLEC to use. If so, Verizon MD will move its customer to the IDLC facility and provision the newly created spare loop to the CLEC as a 2-wire UNE loop. Third, if 2-wire UNE loop facilities are still not available, the CLEC may then use the Bona Fide Request process to define, evaluate and develop new and different types of UNE loops that could potentially be used to serve end users currently served by IDLC.[85]

114. During the Virginia hearings, Cavalier spent a great deal of time

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[84] New York Order at ¶ 273.

[85] Two potential technological concepts for developing a new DS1 UNE loop type with a multiplexed interface, suggested by Cavalier in their comments, are digital switch hairpinning and GR-303 multi-hosting. These approaches, as well as the use of electronic digital cross connect machines, were discussed in the NY PSC collaborative in September 1999.

attempting to demonstrate that Verizon VA did not satisfy its Checklist 4 obligation because Verizon VA has not adopted allegedly available and technically feasible methods of providing Cavalier with a UNE Loop by unbundling the IDLC loop. Cavalier relied on information submitted in a Bell-South proceeding to support its conclusion that unbundling IDLC loops was technically feasible.

115. Verizon MD has insufficient information to determine whether any of the BellSouth scenarios are technically feasible on Verizon's network. Although Verizon did have initial discussion almost 2 years ago with Cavalier regarding various IDLC unbundling scenarios, Cavalier never submitted a Bona Fide Request ("BFR") to trigger the joint technical engineering evaluation process needed to pursue the implementation of a new interconnection method. It appears instead that Cavalier prefers to avoid the BFR process precisely because it wants to avoid sharing any developmental costs to determine technical feasibility and potential subsequent implementation. Thus, not only is there no definitive evidence that any of the IDLC unbundling scenarios is technically feasible, there is also no evidence that Cavalier would be willing to assume the financial commitment associated with any technical assessment of new methods of IDLC unbundling. Indeed, given the fact that Cavalier is unwilling to bear any costs of the BFR process, it is unlikely that it would be willing to assume the significantly higher costs associated with providing UNEs over IDLC loops.

116. Although Cavalier complained in its Virginia testimony that IDLC is a problem because Cavalier cannot serve customer who are currently on IDLC facilities, only 0.3% of Verizon MD's lines are at outside plant terminals where the only type of loop facility is IDLC. Verizon MD, like Verizon VA, also provides additional copper

facilities and universal digital loop carrier facilities, when it is time to add more facilities to an outside plant terminal that has reached capacity, thus further minimizing the issue at large.

117. In short, Verizon MD clearly satisfies its obligation to provide CLECs with UNE loops when a customer is served by IDLC since it follows substantially the same procedures as in New York, where the FCC found Verizon to satisfy the requirements of the Act.[86]

118. As noted above, the Virginia SCC in the Verizon VA 271 proceeding came to the same conclusion:

> "Based on Verizon Virginia's efforts to increase the level of spare copper and universal DLC within its network, and based on FCC approval of the same unbundling processes and procedures in other Verizon states, I find that Verizon Virginia satisfies its obligation to provide CLECs with unbundled loops when a customer is served by IDLC."[87]

2. Hot Cuts

119. Cavalier also complained about certain of its hot cut loop orders were cancelled on the due date because facilities were not available. As previously discussed, when an end user is served through IDLC, Verizon MD attempts to find alternate, available copper or Universal Digital Loop Carrier ("UDLC") facilities to enable Verizon MD to provision a CLEC's order. Every attempt is made to find a suitable facility, even to the extent of transferring a Verizon end user to IDLC in order to free up a copper loop. However, if the transfer is not possible or the alternate facility is discovered to be

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[86] Cavalier can also provide loops to its customers using UNE-P or resale. Tr. 759 (Albert); *see also* Tr. 843 (Clancy.)

[87] Virginia SCC Consultative Report, p. 112.

defective, the order may be cancelled for lack of facilities. Verizon MD has explained to Cavalier and other CLECs, that Verizon VA's "loop make up" pre-order transaction can be used to determine whether an end user is served through IDLC. Yet, to Verizon's knowledge, Cavalier has not made use of this pre-order transaction.

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120. Reviewing all the evidence regarding Verizon MD's performance under Checklist Item 4, there is no indication of "patterns of systemic performance disparities that have resulted in competitive harm or that have otherwise denied new entrants a meaningful opportunity to compete."[88] In fact, no CLEC provided any evidence of below parity performance. Verizon MD has complied with Checklist Item 4. The Commission should affirm in its consultative report to the FCC that Verizon MD has satisfied its Checklist Item 4 obligations.

VII. CHECKLIST ITEM 5: LOCAL TRANSPORT FROM THE TRUNK SIDE OF A WIRELINE LOCAL EXCHANGE CARRIER SWITCH UNBUNDLED FROM SWITCHING OR OTHER SERVICES

121. Verizon MD demonstrated in its Checklist Declaration, ¶¶ 184 - 200, that it has satisfied its obligations under Checklist Item 5. No party filed comments regarding Verizon MD's dedicated or shared transport offerings. However, three CLECs – AT&T, Covad and CoreTel– filed comments regarding Verizon MD's compliance with its obligations to provide unbundled dark fiber.[89] In addition, Cavalier filed its Virginia 271 State proceeding testimony as part of this case, which also raised issues regarding

[88] *PA Approval Order*, at ¶ 77.

[89] AT&T ¶¶ 11-21, Covad ¶ 15, CoreTel Communications at 26-42.

Verizon VA's unbundled dark fiber offering.[90] However, Cavalier did not submit any Maryland specific testimony disputing Verizon's MD's compliance with this requirement.

122. As will be demonstrated below, the claims raised by these parties are without merit. As noted in the Checklist Declaration, Verizon MD uses the same methods and procedures that the FCC found acceptable in the Pennsylvania 271 proceeding.

123. AT&T, Cavalier, CoreTel[91], and Covad complain about the nature and extent of dark fiber information that is available from Verizon MD for the CLECs to engineer their networks and to order dark fiber. Covad requests that Verizon MD be required to provide CLECs with "direct access to the same plant records that are available to an ILEC for evaluating the availability of dark fiber." AT&T suggests that the information regarding of dark fiber availability should include information similar to "Cable Documentation required by the Massachusetts and Texas commissions." CoreTel indicates that Verizon MD should be required to "periodically publish a list of routes that contain dark fiber." In its VA Panel Testimony, Cavalier requests that Verizon MD provide it with an "overview map" that identifies where dark fiber exists in the network.[92]

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[90] Cavalier, Virginia Panel at 58-61.

[91] CoreTel asserts its position is substantiated by the "fact" that there are very few dark fiber UNEs in VZ Maryland territory and cites the two dark fiber UNEs Verizon MD indicated in its Checklist Declaration at Paragraph 200. However, the Checklist Declaration clearly states that the two units were provisioned for a **three month period ending January 2002** (*i.e.*, November 2001, December 2001 and January 2002). In fact, as of July 31, 2002, Verizon MD has provisioned approximately 70 dark fiber UNEs for CLECs.

[92] Cavalier, Virginia Panel at 57-58

124. The AT&T, CoreTel, Covad, and Cavalier complaints are totally without merit. Contrary to AT&T's claims, Verizon MD is not obligated to provide dark fiber in Maryland in accordance with the dark fiber offerings in Massachusetts or Texas. Verizon MD is obligated to provide nondiscriminatory access to dark fiber in Maryland solely in accordance and compliance with the requirements of the Act and the FCC's *UNE Remand Order,* which it is doing.

125. As noted in the Checklist Declaration, Verizon MD makes the same dark fiber information available to CLECs in Maryland, as it does in Pennsylvania. The FCC found that Verizon's transport offerings, including dark fiber, in Pennsylvania comply with its Checklist requirements.[93] The fact that another state may have imposed terms and conditions on Verizon's dark fiber offering, which some CLECs view as more favorable to them, is not determinative.[94] In the Vermont 271 proceeding, a CLEC argued that Verizon VT's dark fiber offering was less favorable than the Verizon Massachusetts offering. The FCC rejected this argument noting that the dark fiber offering in Vermont was substantially the same as in Pennsylvania and Connecticut -- states where the FCC had already granted 271 authority.[95]

126. In addition, AT&T, Cavalier, Covad, and CoreTel have existing interconnection agreements with Verizon Maryland. The issues raised by AT&T, Cavalier, Covad, and CoreTel in this proceeding go well beyond their current

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[93] *Pennsylvania Approval Order* ¶¶ 109-113.

[94] *Application of Verizon New England Inc., Bell Atlantic Communications, Inc.(d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Vermont*, released April 17, 2002 ("*Vermont Order*") ¶¶ 56-57.

[95] *Id.*

interconnection agreements. The appropriate means for these carriers to address the unique additional terms and conditions they seek regarding the availability of dark fiber information is through the interconnection agreement negotiation process.[96] In fact, CoreTel acknowledges that it has filed a petition for dispute resolution concerning VZ MD's dark fiber terms and conditions which is ongoing in Case No. 8910. Resolution of CoreTel's concerns should be decided in that proceeding and are not properly a part of this 271 proceeding. The bottom line for this proceeding is that Verizon MD's dark fiber offering satisfies the federal 271 checklist.

127. In the recently concluded Virginia State 271 proceeding, many of the same issues and complaints concerning Verizon Virginia's unbundled dark fiber offering were raised by some of the same complainants that appear here. The VA SCC reached the following conclusion with respect to the identical issues raised by AT&T, Cavalier and Covad:

> There appears to be no real debate concerning whether Verizon Virginia's processes and procedures for unbundling dark fiber are compliant with the Act. Rather, the CLECs urge the Commission to move beyond what is required by the Act. Consequently, I find that Verizon Virginia's dark fiber offering satisfies the requirements of Checklist Item 5.[97]

128. Moreover, the FCC recently concluded that the information provided by Verizon regarding unbundled dark fiber availability is acceptable and within the parameters of its *UNE Remand Order* requirements as long as Verizon modifies other aspects of its unbundled dark fiber offering. On July 17, 2002, the FCC issued its *VA Consolidated Arbitration* order that, among other things, addressed a number of

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[96] *Pennsylvania Approval Order* ¶ 113.

[97] Virginia SCC Consultative Report, p. 124.

unbundled dark fiber issues similar or identical to the issues raised in this proceeding. Regarding the information Verizon provides to CLECs concerning dark fiber availability, the FCC concluded the information currently provided is sufficient provided that Verizon conform its dark fiber offering to the FCC's holdings on the other dark fiber issues.[98] To the extent that any CLEC operating in Maryland wants to obtain those dark fiber service offerings and arrangements that the FCC found in the VA Consolidated Arbitration to be required by applicable law, they may request these in interconnection agreement negotiations.[99]

129. Currently in Maryland -- as in Pennsylvania -- there are three ways for CLECs to obtain information relating to the availability of Verizon MD's dark fiber facilities. This information allows a CLEC to (1) do general network planning, (2) make location specific and quantity specific dark fiber service requests, and (3) obtain detailed fiber optic transmission data needed to engineer the fiber optic system electronics that the CLEC will connect to Verizon MD's dark fiber facilities.

130. First, upon receipt of the CLEC's written request (the Dark Fiber Inquiry Form), Verizon MD will initiate a review of its fiber optic cable records and known, near-term fiber optic requirements to determine whether spare dark fiber may be available for lease between the requested locations, and in the quantities specified in the

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[98] *VA Consolidated Arbitration* ¶¶ 471-473. In addition to Verizon VA's original terms and conditions related to dark fiber, the Virginia Arbitration required Verizon to provide the following: (1) Requirement to provide dark fiber together with any existing intermediate regenerators or amplifiers; (2) Requirement to provide dark fiber routed through multiple intermediate offices; (3) Requirement to search for dark fiber routes through multiple intermediate offices; (4) Requirement to provide reservation procedures for unbundled dark fiber elements; and (5) Requirement to obtain state commission review prior to imposing limits on availability of unbundled dark fiber elements to a CLEC.

CLEC's request. Based on the review of cable records, Verizon MD will provide a written response to the CLEC indicating whether the requested dark fiber may be available. A CLEC must submit a Dark Fiber Inquiry Form prior to submitting a dark fiber order, *i.e.*, an Access Service Request ("ASR"). Verizon MD will also provide the services described below at the CLEC's option, to obtain additional information about Verizon MD's fiber facilities. These services are charged on a time and materials basis.

131. Second, since Verizon MD cannot guarantee the accuracy or completeness of its fiber optic cable records, Verizon MD will initiate a field survey at the CLEC's request, for time and material charges, to verify the availability of specific dark fiber pairs. As part of this field survey, Verizon MD will test the specific fiber pairs by placing a light source on the individual fibers and measuring the end-to-end loss using industry standard fiber optic test equipment. Verizon MD will document the test results and provide them to the CLEC so that it may determine if the fiber characteristics can be used with their engineering design.

132. Third, upon written request from the CLEC, Verizon MD will create a wire center fiber layout map (at time and material charges) based on its existing records for the CLEC's use in performing preliminary network planning and engineering work. These maps will provide street level detail of the existing fiber routes within the wire center where Verizon MD's fiber optic cables exist. As part of this process, Verizon MD will provide the CLEC with a written estimate of the time and cost associated with creating the maps. These maps are provided subject to a non-disclosure agreement,

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[99] The availability of these service offerings and/or arrangements is subject to the results of any rehearing or appeal of the FCC's *VA Consolidated Arbitration* order.

which limits disclosure to the CLEC personnel that need the fiber layout information to design the CLEC network.

133. Thus, in Maryland, as in Pennsylvania, Verizon meets its obligation under the Act and the FCC's decisions for the provision of unbundled dark fiber availability information. AT&T, Cavalier, Covad and CoreTel's requests go beyond these requirements and should be disregarded.

134. AT&T and Cavalier also raise concerns regarding the ordering process for unbundled dark fiber service. Specifically, AT&T and Cavalier (in its VA testimony) complain that CLECs must have a collocation arrangement constructed prior to ordering dark fiber circuits that will be connected to that collocation arrangement.[100] Cavalier complains that this is an unnecessarily lengthy process. AT&T suggests that, although Verizon has instituted trials to address this problem in Pennsylvania and Virginia, Verizon has not agreed to take the same steps in Maryland.

135. Currently, Verizon MD's existing ordering, provisioning, and billing processes, procedures, and operations systems for all existing wholesale and all existing retail services require that a physical location exist to which the service will be provisioned before Verizon MD can accept an order to provision the service or UNE. The physical location must exist so the service or UNE can be properly terminated or connected. This is similar to the Postal Service not being able to deliver a letter to a new residence, before the residence has a street address and a mailbox.

136. However, based upon Cavalier's stated need, Verizon has entered into trial agreements with Cavalier for the "parallel provisioning" of collocation arrangements and

[100]AT& T at 20. Cavalier, Virginia Panel Testimony at 58-59.

unbundled interoffice facility dark fiber in Maryland, as well as in Virginia and Washington, D.C.[101] The purpose of these trials is to develop new processes, procedures, and system modifications so that, shortly after receipt of a collocation application, Verizon MD can accept and partially provision a CLEC's order for unbundled dark fiber even though the collocation is not yet ready. Verizon MD will be able to provision the unbundled dark fiber service through the facility assignment stage so it can be terminated at the central office(s) where the collocation arrangement(s) will be constructed. Upon completion of the collocation arrangement(s), the CLEC submits a second ASR requesting Verizon MD to complete provisioning and delivery of the unbundled dark fiber order to the collocation site(s). In turn, the CLEC is charged for the unbundled dark fiber service coincident with the date Verizon that completes the CLEC's initial assignment order for the unbundled dark fiber circuit.

137. Upon successful completion of these trials and the establishment of appropriate processes and procedures, Verizon and Cavalier have agreed to amend their interconnection agreements to reflect the availability of the parallel provisioning option. At that time, the new provisioning option will be offered to other carriers, including AT&T, through interconnection agreement amendments, as necessary. Verizon MD is diligently working to address Cavalier's stated requirements, but in the meantime, as the FCC determined in the Pennsylvania 271 proceeding, Verizon's current practices satisfy the Checklist.

138. In its recent *VA Consolidated Arbitration* Order the FCC concluded that while Verizon is developing its parallel provisioning processes, Verizon must permit

[101] Clearly, AT&T's assertion that Verizon has not agreed to engage in a parallel provisioning trial in Maryland is wrong.

CLECs to reserve available unbundled dark fiber under certain circumstances. In its decision, the FCC suggested that once Verizon's parallel provisioning process is fully tested and implemented, such a requirement may not be necessary.[102]

139. AT&T and CoreTel assert that Verizon MD's definition for unbundled dark fiber is vague, restrictive, a misinterpretation of the FCC's UNE Remand Order, and subject to change at Verizon MD's discretion. AT&T complains that Verizon MD defines dark fiber as only that fiber that is continuous (*i.e.*, spliced between two CO's or between a CO and a customer or CLEC premises).[103] CoreTel requests that Verizon MD establish and publish the rules it uses to define dark fiber. This definition must include a clear explanation of how Verizon MD reserves fiber pairs to account for future growth and for space capacity on any given fiber route.[104] CoreTel also complains that CLECs must collocate at any location where they want to connect two dark fiber UNEs.[105] In addition, CoreTel believes CLECs should be able to order a dark fiber jumper at those locations where two pieces of dark fiber are not continuous.[106]

140. As an initial matter, there is nothing vague or ambiguous about Verizon MD's unbundled dark fiber definition. Verizon MD has explicitly set forth its definition of unbundled dark fiber pursuant to the FCC's UNE Remand Order in its interconnection agreements as well as in its Checklist Declaration provided in this proceeding. Under Verizon's Maryland's dark fiber offering, an unbundled dark fiber network element

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[102] *VA Consolidated Arbitration* ¶¶ 460-461.

[103] AT&T Nurse ¶¶ 17-19.

[104] CoreTel at 31.

[105] CoreTel at 39.

consists of two spare continuous fiber strands (*i.e.*, one pair), which are within an existing fiber optic cable sheath. These fibers are terminated to an accessible terminal, but are not connected to any Verizon equipment used or that can be used to transmit and receive telecommunications traffic. As stated previously, Verizon's dark fiber offering in Maryland is substantially the same as its dark fiber offering in Vermont and Pennsylvania, where the FCC has already found that Verizon's dark fiber offering is in compliance with the Checklist.

141. Verizon MD offers existing dark fiber to CLECs where spare facilities exist on a first come, first served basis. Spare facilities are dark fiber facilities that have not been assigned to Verizon MD for customer use. Verizon MD will always have spare cable to maintain network survivability and reliability and for near-term customer requirements. This includes orders for individual customer fiber optic services, as well as aggregate customer demands requiring the application of fiber optic technology in the process of being designed and installed.

142. The FCC also addressed factors relating to these issues in its recent *VA Consolidated Arbitration* decision. First, the FCC concluded that Verizon must alter its current definition to remove the requirement that the dark fiber strand must be "continuous" and alter the phrase of "two Verizon central offices" to "two or more Verizon central offices."[107] As a result of these changes, the FCC ruling requires Verizon to cross-connect fiber routes at central offices thus permitting dark fiber to be routed through intermediate offices. This modification further removes the need for CLECs to

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[106] CoreTel at 41.

[107] *VA Consolidated Arbitration* ¶ 460.

collocate at any location where they want to connect two dark fiber unbundled network elements. As stated earlier, any CLEC that wants these modifications can ask to have its interconnection agreement modified. This resolves the remaining issues raised by the CLECs.

143. Finally, CoreTel also asserts that it should be entitled to access dark fiber UNEs at any "technically feasible" point, not just at accessible terminals.[108] CoreTel's definition of a "technically feasible" point appears to exclude existing splice points but include other points along a fiber strand "where Verizon has designed for future access to the fiber."[109] CoreTel's position is without merit. First, the FCC's *UNE Remand Order* explicitly *prohibits* access to dark fiber loops at any point other than "accessible terminals." In particular, the FCC ruled that ILECs are *only* required to provide access to subloops at "accessible terminals." Accessible terminals are defined as "point[s] on the loop where technicians can access the wire or fiber within the cable *without removing a splice case to reach the wire or fiber within.*"[110] In so ruling, the FCC stated that such terminals "differ from splice cases, which are *inaccessible* because the case must be breached to reach the wires within."[111] Therefore, the FCC expressly carved out splice points from the definition of "technically feasible" access points within the meaning of

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[108] CoreTel at 34-36.

[109] CoreTel includes in its description of these "designed access points" a "common type of hardware" it refers to as a "handhole." There is no such device or hardware in Verizon MD's fiber network.

[110] *UNE Remand Order* at ¶ 206 (emphasis added)

[111] *UNE Remand Order* at ¶ 206, n. 395 (emphasis added).

section 251 of the Act. The FCC's rationale also excludes from the definition, *future* splice point locations.

144. Second, if there were any remaining doubt regarding the FCC's intent on this matter, the FCC's recent *VA Consolidated Arbitration* decision has put such doubt to rest. In its decision, the FCC reaffirmed its position by endorsing Verizon's current practice which limits access to "hard termination points."[112] The FCC stated that:

> The record suggests, rather, that Verizon does not perform such splices for itself routinely, and splices into sealed fiber stubs rarely and for compelling reasons, such as to extend the network. It does not appear discriminatory for Verizon to withhold from competitive LECs a form of access that Verizon itself prefers not to use because it considers that access to be risky and operationally unsound, notwithstanding that Verizon may resort to an analogous procedure on relatively rare occasions to construct new facilities. Because the current record does not allay concern regarding the effect on the fiber's capacity or integrity of multiple or repeated invasive practices, the agreements should include Verizon's limit of access to hard termination points.[113]

145. Clearly, CoreTel's request for access at all of what CoreTel claims are "technically feasible" points goes beyond the requirements of the FCC's *UNE Remand Order* and *VA Consolidated Arbitration* decision. Further, as noted earlier, Verizon MD's unbundled dark fiber offering -- including the limitation of access to hard termination points-- in Maryland is essentially the same as its offering of unbundled dark fiber in the other states such as Pennsylvania, Connecticut, and Vermont where Verizon has obtained long distance authority. CoreTel's request should be disregarded.

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[112] *VA Consolidated Arbitration* at ¶ 451.

[113] *Id* at ¶ 453.

146. As demonstrated above, the complaints by AT&T, Cavalier, CoreTel and Covad regarding Verizon's unbundled dark fiber offering fail to undercut Verizon MD's showing in the Checklist Declaration that it complies with the requirements of Checklist Item 5. Accordingly, the Commission should conclude, as did the FCC for Pennsylvania, Connecticut and Vermont, that Verizon MD satisfies this

VIII. CHECKLIST ITEM 7: 911/E911, DIRECTORY ASSISTANCE, OPERATOR CALL COMPLETION SERVICES

147. Verizon MD demonstrated in its Checklist Declaration, ¶¶224-257, that it has satisfied its obligations under Checklist Item 7. Nevertheless, Cavalier filed comments "adopting" an E911 billing dispute raised in their Virginia testimony for use in Maryland.

The claim raised in Cavalier's Virginia testimony--a billing dispute between Chesterfield County, Virginia and Cavalier--is not a matter for this proceeding in *Maryland.* Indeed, the VA SCC found that Cavalier's claims were not even relevant to the 271 proceeding in *Virginia.*[114]

IX. CHECKLIST ITEM 8: WHITE PAGE DIRECTORY LISTINGS

148. Verizon MD's compliance with this checklist item is described in the Checklist Declaration at ¶¶258-270. Only two CLECs--AT&T and Cavalier--filed comments contending otherwise.

149. AT&T argues that the KPMG test was inadequate because it did not check directory listings to see if they actually appeared in the appropriate directory, and that this

[114] Virginia SCC Consultative Report, p. 134..

failure must be corrected before the Commission rules in this case. AT&T further claims that the Listing Verification Report ("LVR") process is flawed, and that Verizon's retail service representatives somehow have more tools at their disposal to ensure accurate listings for retail customers than the CLECs do for wholesale customers. AT&T concludes by asserting that Verizon performs no final review of the directory listings process, and hence the end result--the printed directory--is not as error-free as is reasonably possible.

150. While AT&T contends that the directory listing process is unproven and fraught with potential problems, AT&T provides no evidence whatsoever of actual errors in published directories for its customers. AT&T's hypothetical scenarios and unsupported allegations are devoid of merit and can be summarily dismissed. Moreover, AT&T's assertion that Verizon 's retail service representatives have more tools available to ensure accurate listings for retail customers than the CLECs do for wholesale customers is plainly incorrect. In fact, the CLECs have *additional* tools--a written transaction confirmation and the LVR--that are not available to Verizon's retail service representatives. And while AT&T contends that the LVR process is flawed, this very process has already been reviewed and approved by the FCC.[115]

151. Cavalier's testimony contained no claims related to Verizon MD's compliance with Checklist Item 8. Instead, Cavalier "adopted" its Virginia testimony for use in Maryland, with no evidence to support its contention that alleged problems with directory listings in Virginia also occur in Maryland. Cavalier fails to provide any basis to conclude that its Virginia allegations, even if accurate – which they are not – are

[115] *See, e.g., New Jersey Order* ¶ 157.

relevant to Verizon MD's performance. In addition, these contentions were rejected by the Virginia SCC which concluded "that Verizon VA provides white page directory listings for CLEC customers in accordance with the requirements of Checklist Item 8".[116] Thus, even if this Commission considers Cavalier's allegations, it should do so in the light of the Virginia SCC's determination that they were unfounded and that Verizon Virginia satisfied the requirements of this checklist item.

X. CHECKLIST ITEM 11: LOCAL NUMBER PORTABILITY

152. Cavalier is the only party to assert that Verizon MD has failed to meet the requirements of Checklist Item 11 regarding local number portability ("LNP"). Cavalier asserts that "Verizon [is] taking numbers for winback customers without Cavalier's concurrence." (Cavalier Panel Testimony, p. 7.) A "winback customer" is a former Verizon customer that has chosen to leave Cavalier and return to Verizon for service, and whose number is being ported *from* Cavalier *to* Verizon. It should be noted that Cavalier has raised no claims regarding porting of numbers *to* Cavalier *from* Verizon.

153. The only purported support that Cavalier provides for its claim are three e-mail messages, which relate to porting of numbers from Cavalier to Verizon for three end user customers. (Cavalier Panel Testimony, Exhibit 49.) One of the three is a customer of Verizon Virginia Inc., and claims regarding porting for that customer are therefore irrelevant to Verizon MD's compliance with Checklist Item 11. Moreover, a similar claim made by Cavalier in Virginia was rejected by the VA SCC in the Virginia 271 proceeding.[117]

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[116] Virginia SCC Consultative Report, p. 147.

[117] Virginia SCC Consultative Report, p. 152.

154. Problems were experienced in the porting of numbers for the remaining two customers. However, these problems were a result of isolated instances of human error on the part of Verizon MD personnel, as well as human error by Cavalier representatives and Cavalier's failure to communicate with Verizon MD in a timely manner to facilitate the porting process.

155. There is no evidence of a systemic problem with the porting of numbers from CLECs to Verizon MD. In fact, the evidence is to the contrary. During the period from February through July 2002, numbers for more than 3,000 winback customers have been ported to Verizon MD from CLECs, including at least three CLECs in addition to Cavalier. Any claim that Verizon MD fails to meet this Checklist Item is belied by Verizon MD's successful performance of the vast majority of ports both to and from Verizon MD. Verizon MD has satisfied its obligations under Checklist Item 11 to provide local number portability as described in the Checklist Declaration. (Checklist Declaration, ¶¶ 317-321.)

XI. CHECKLIST ITEM 14: RESALE

156. As it demonstrated in its initial filing, Verizon MD complies fully with all of its resale obligations under the 1996 Act. Verizon MD offers to CLECs for resale, at the wholesale rates established by this Commission, all of the telecommunications services it provides at retail to subscribers who are not telecommunications carriers. Other carriers can and do purchase these services to compete directly with Verizon MD.[118]

157. Only one party challenged Verizon MD's compliance with Checklist

[118] Checklist Declaration at ¶ 333.

EXHIBIT H

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

CASE NO. 02-0254-T-C

NORTH COUNTY COMMUNICATIONS CORPORATION,

Complainant,

v.

VERIZON WEST VIRGINIA INC.,

Defendant.

VERIZON WEST VIRGINIA INC.

REBUTTAL TESTIMONY OF DONALD E. ALBERT

October 4, 2002

Q. MR. DAWSON CLAIMS THAT "VERIZON NOW WANTS NCC TO SHIFT THE FEW TIS IT HAS ON THE "RETAIL" FACILITIY OVER TO THE NOW NEWLY COMPLETED "WHOLESALE" FACILITY, WHICH WOULD CAUSE UNDUE EXPENSE AND NETWORK OUTAGES FOR NCC DURING THE CUTOVER AND TRANSITION". PLEASE RESPOND. (DAWSON DIRECT TESTIMONY AT 14).

A. Performing this work without service disruption is a basic and standard procedure. Verizon currently adds (and disconnects) trunks on its trunk groups carrying traffic to CLECs (such as the six trunk groups carrying traffic to NCC) and CLECs currently add (and disconnect) trunks on their trunk groups carrying traffic to Verizon. This is done *routinely*. To migrate the initial six DS-1s that Verizon WV provisioned to NCC, based on current trunk group utilization data, Verizon would add 24 trunks (a DS1) to each trunk group (where required) over the dedicated IOF fiber optic system, and then disconnect the DS1 (24 trunks) from the trunk group that was riding on the loop fiber optic system. For currently underutilized trunk groups, such as the Lewisburg trunk group, where only 9 trunks are required based on the busy-hour traffic data, Verizon would disconnect the DS1 riding the loop fiber system, leaving the DS1 that is currently riding the dedicated IOF fiber system, which would be sufficient to meet the current load. The chance of any outage is highly remote.

EXHIBIT I

500 Summit Lake Drive
Valhalla, NY 10595

September 13, 2002

Mr. Bret Mingo, President
Core Communications, Inc.
209 West Street Suite 302
Annapolis, Maryland 21401

Re: ANI on MF Trunks
Bret:

Further to my recent E-mails to you on the above-captioned subject, the only recent filing that Verizon has made to the Maryland PSC that deals with CPN and ANI is Verizon's Reply Checklist Declaration in Case No. 8921. If that is the filing you are referring to, then I think you have misread it. In paragraphs 46 and 47 of the checklist, Verizon states, consistent with what I indicated in my September 5th E-mail, that ANI is part of the signaling protocol for Feature Group D trunk groups using MF signaling. Verizon did not say that it could provide ANI over local interconnection trunks.

Feature Group D signaling is used for interexchange traffic, not for local calls originated on Verizon's network and delivered on local MF trunk groups to CLECs. As the Reply Checklist Declaration indicates, Verizon Maryland's switching machines cannot translate and connect 10 digit local calls, originated from the dial-tone lines that Verizon serves, to trunks that use Feature Group D signaling.

One point of clarification from my previous communications to you on this subject – CLECs who are also in the long distance business can and do order Feature Group D trunks from Verizon.

Please let me know if you need further clarification.

Very truly yours,

Howard Levine
Account Manager

EXHIBIT J

Hazzard, Michael

From: Bret Mingo [bret@coretel.net]
Sent: Thursday, January 09, 2003 4:24 PM
To: Hazzard, Michael
Subject: Re: ANI on MF trunks (fwd)

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---------- Forwarded message ----------
Date: Thu, 5 Sep 2002 11:25:07 -0400
From: howard.levine@verizon.com
To: Bret Mingo <bret@coretel.net>
Subject: Re: ANI on MF trunks

Bret:

In reply to your E-mail below, after checking with one of our translations folks I have learned that in order to send ANI, Feature Group D signalling must be utilized. Feature Group D signalling is sent to and utilized by IXCs, not to CLECs such as Core.

So, while it may be correct to state that ANI is a component of MF signalling, it is only a component of MF Feature Group D signalling and (as previously stated) such Feature froup D signalling is applicable only to IXCs, not CLECs.

In light of the above, we will not be able to provide ANI on Core's MF trunks.

Please let me know if you wish to discuss further.

Howard

Bret Mingo <bret@coretel.net> on 09/04/2002 02:24:12 PM

To: Howard Levine@VZNotes
cc:
Subject: ANI on MF trunks

Greetings -

I was just reading that VZ will provide ANI on MF trunks for CLECs and IXCs, so I would like to change our configurations to receive ANI; my first priority would be for the new switches.

Let me know what we need to do.

Cheers,
Bret

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EXHIBIT K

VERIZON MARYLAND INC.

CASE NO. 8921

RESPONSE TO IN-HEARING

DATA REQUEST OCTOBER 29, 2002

5. Mr. Hazzard: I would like to modify my record request to have that chart extended out to the most recently available month. I believe it only runs through April of this year, I'm not sure how far, how near today Verizon has the data, but for data that Verizon presently has available, extend the spreadsheet down.
Mr. Albert: Okay. We'll take it out as far as we have it. You want the same kind of split.
Mr.. Hazzard: Exactly. If I could ask for one additional column on the chart, which would be the number of minutes terminated from UNE platform service in the State of Maryland. (Core TR p. 00645)

See attached file 10-29 In-Hearing Request 5 Attachment.

VERIZON MARYLAND MOU

	VZ to CLEC MOU	CLEC to VZ MOU
2001		
January	1,137,367,901	32,909,874
February	1,308,401,022	34,836,514
March	1,229,253,135	32,255,567
April	1,374,425,919	37,644,823
May	1,300,274,001	35,376,343
June	1,316,837,767	36,108,061
July	1,319,689,177	36,250,698
August	1,411,994,547	40,822,411
September	1,505,161,495	41,449,080
October	2,112,645,844	42,512,915
November	1,615,957,985	48,742,275
December	1,615,957,985	54,979,115
2002		
January	1,662,520,909	57,107,740
February	1,722,742,345	62,967,051
March	1,722,742,345	58,798,800
April	1,812,842,072	65,355,225
May	1,728,723,535	65,878,054
June	1,577,566,120	68,887,563
July	1,690,752,172	66,273,966
August	1,785,651,793	64,790,502